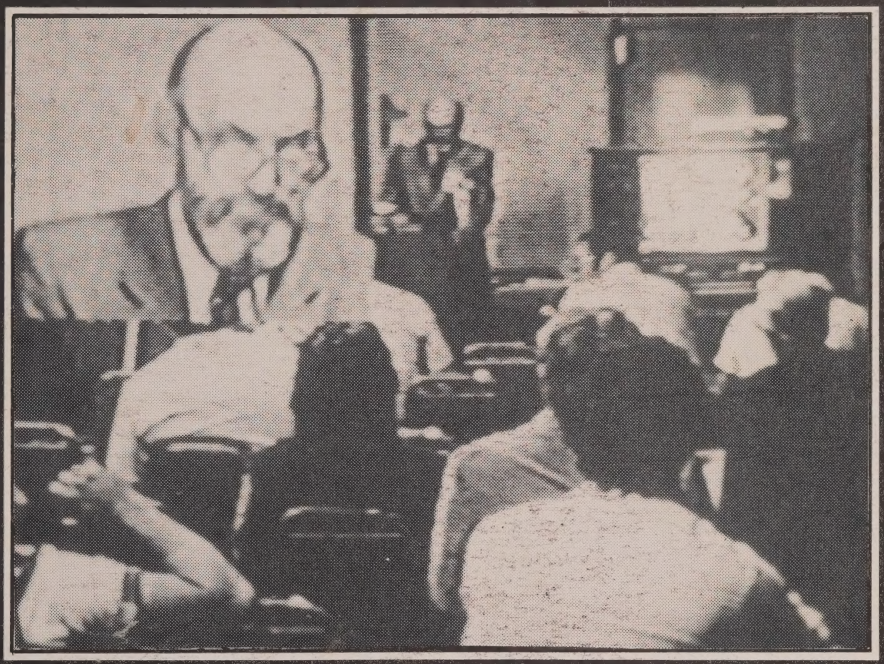
1982 EDITION

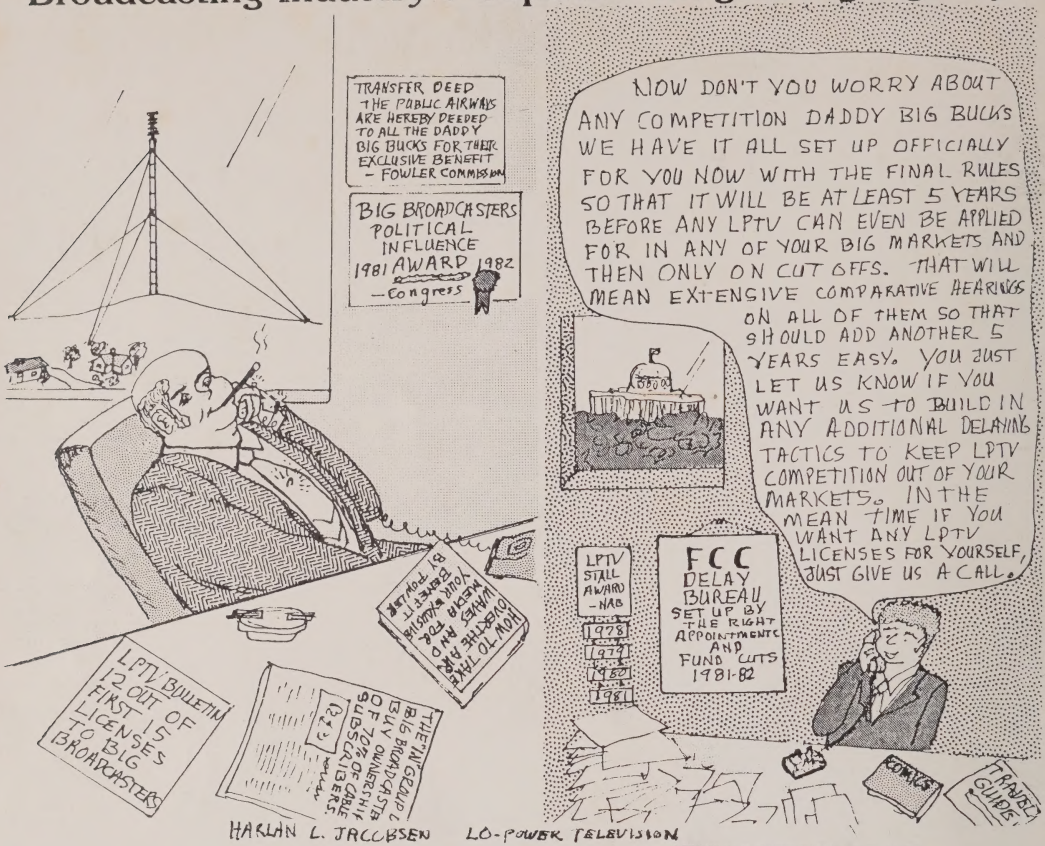
LO-POWER COMMUNITY TV



May

FINAL FCC RULES

Broadcasting Industry's Captive Unregulating Agency


TRANSFER DEED
THE PUBLIC AIRWAYS ARE HEREBY DEEDED TO ALL THE DADDY BIG BUCKS FOR THEIR EXCLUSIVE BENEFIT
– FOWLER COMMISSION
BIG BROADCASTERS POLITICAL INFLUENCE 1981 AWARD 1982
– Congress
NOW DON'T YOU WORRY ABOUT ANY COMPETITION DADDY BIG BUCKS WE HAVE IT ALL SET UP OFFICIALLY FOR YOU NOW WITH THE FINAL RULES SO THAT IT WILL BE AT LEAST 5 YEARS BEFORE ANY LPTV CAN EVEN BE APPLIED FOR IN ANY OF YOUR BIG MARKETS AND THEN ONLY ON CUT OFFS. THAT WILL MEAN EXTENSIVE COMPARATIVE HEARINGS ON ALL OF THEM SO THAT SHOULD ADD ANOTHER 5 YEARS EASY. YOU JUST LET US KNOW IF YOU WANT US TO BUILD IN ANY ADDITIONAL DELAYING TACTICS TO KEEP LPTV COMPETITION OUT OF YOUR MARKETS. IN THE MEAN TIME IF YOU WANT ANY LPTV LICENSES FOR YOURSELF, JUST GIVE US A CALL.
LPTV BULLETIN 12 OUT OF FIRST 15 LICENSES TO BIG BROADCASTERS
HOW TO TAKE OVER THE FCC BY FRONTING FOR BIG BROADCASTERS AND WASTE YOUR INVESTMENT
BIG BROADCASTERS OWNERSHIP OF CABLE SYSTEMS
THE BIG GRAB
FCC DELAY BUREAU SET UP BY THE RIGHT APPOINTMENTS AND FUND CUTS 1981-82
LPTV STALL AWARD – NAB
1978
1979
1980
1981
CATS
COMICS
TRAVEL GUIDES
HARLAN L. JACOBSEN
LO-POWER TELEVISION

THE COMMISSION STILL REFUSES TO FACE REALITY

Press comments out of the commission are that they expect an eventual 4,000 low power stations to be licensed. We believe that there will be at least 40,000 and would all be on within five years with another 40,000 in the following five years.

This would all happen if the commission would get out of the way of denying the American public the television service that is possible through this inexpensive technical means of LPTV. If there are only 4,000, it will only be because the commission continues to protect the present fat cats now controlling television broadcasting from competition. They do this through developing continued ridiculous rules and frustrating applicants through dragging of feet in processing. There are no technical or economic reasons why 150,000 low power stations cannot be easily squeezed in and allowed in this country. It is only protectionist, political and archaic bureaucratic systems that deny the American public the full use of the television spectrum. Only if the public is made aware and political pressure from congress is brought to bear will this situation be corrected.

Cover photo taken of TV screen with playback of videotape made at the Dallas crash course with Dr. Byron St. Clair speaking. Lowcost LPTV setup demonstrated with mixing etc. Note second camera insert in left corner. Article on camera setup next issue.

NEW LPTV RULES ARE OUT

Since the LPTV rules have come out and you need those as soon as possible, we are rush printing them and mailing them first class mail. This postage bill alone cost us over $300 more than our normal mailing second class mail costs but will speed delivery to you by about a week. This cost is in addition to extra printing costs we have absorbed. In order for us to stay solvent, we are leaving out much of our regular magazine this issue and will have June out early (mailed in May) with our usual features, cutoffs, applications, etc., including a planned story on the second LPTV station to come on the air.

We are also holding off on comments or advise on the new rules in this issue, (as we write this they have not been released),and will only say that this will be printed in the Federal Register about one week to one month later and the rules will take affect 30 days after they are published in the Federal Register.

We understand the new rules change the freeze limitations. What is expected to happen is it will make it more difficult in the east but actually open up areas in the west that could not be fil ed under the previous freeze.

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LETTER TO THE EDITOR

Dear Harlan:

Really enjoyed the crash course in Arlington and learned quite a bit. But I find some of my questions still unanswered and, on items you covered, either my notes are inadequate or my memory is faulty.

So I've prepared a list of questions and comments that I really would appreciate your addressing.

On another page, I have attached a copy of a narrative of what we hope to do with our two LPTV stations when they are granted, following our April 20 cutoff date. By seeing what we intend to do, I would appreciate any and all comments from you on how we accomplish our goals economically, including what equipment to use and where it may be acquired, and at what price.

I spent over 30 years in radio, but I'm 100% ignorant when it comes to television, even LPTV. So, any assistance you can provide will be enormously appreciated.

Although hard to know, what is your best guesstamation of when we might expect a grant, with a cutoff date of April 20? I'm probably asking a lot, but give it your best shot, will you? Thanks for everything.

Regarding your questions in the letter about time after cut off, it looks like they are personally calling and telling the applicants about a CP being granted about 45 to 60 days or so after cutoff, and public announcements follow about the same grant about 30 days later.

However, one Washington attorney at Dallas said that as much as 80% of the applicants in that first big cutoff had someone file on top of them, which of course may mean years before you get a grant if that happens to you. The FCC commissioner in attendance, nor no one else at the Dallas LPTV meeting I attended, could tell us when the first comparative hearing would be held (if ever) when you are stuck with another person filing on top of you during cutoff.

Now, about your statement page of what you want to do, you seem to think you need a study of your transmitter site for satellite reception.

Why don't you just go down to the telephone company and ask them to show you where their microwave paths are. If they have nothing near you nor nothing passing anywhere near you, it would seem a waste of time and money to do a study. Regarding the STL, you certainly should be able to observe any microwave unit anywhere near. They should be in a far different frequency there anyway so there seems a very small risk of not needing any study of that. You are in a remote area there. Only in the big cities do you normally have a big jam up microwave paths. If you are on the only peak around, it should be obvious what is already on the hill.

STL's are licensed simply in about 90 days. The supplier can practically do that form for you.

Your question about is it worth considering a ten watt UHF transmitter at the studio, the answer is yes to get you to the hill instead of expensive microwave. However, if you file that now, the granting of that may be 6 months or more behind the other.

I would suggest for most foolproof operation — considering you have the following — primarily satellite operations such as STV. Lower cost initially perhaps without microwave STL or your 10 watter in town and using phone line for control. You are going to operate on the same satellite all the time. In that case I would put the TVRO at the antenna site on the hill. If you use microwave or you 10 watt LPTV downtown to get to the hill you can then switch to the satellite by a tone control, and/or have an automatic circuit that, if your input from town fails, it automatically switches to the TVRO.

In your case, wanting to use 2 VCR's, one with commercials and the other with local taped programs, I would be sure to use industrial grade VCR's that have a second audio channel. Where the tape should be switched (ended), put one type of tone and when the tape continues after switching off of it and it continues to roll to the point where the next program should start, have a second tone which stops the VCR at the ready point, cued for the next start tone which arrives by telephone line. Lease a telephone line initially as a way to start (usually about $6 per month per mile). Use a $280 tone control unit as we showed at Dallas, with 6 tones that can turn off and on 6 functions by telephone line or internal tone on the tapes. You need one at your office and one at the tower. By pushing a button at the office tone machine or another one at home, etc., you can switch in either tape deck and you can switch it manually back to the satellite reception or to the other VCR, or the tone on the tape will switch it back to the satellite automatically at the right point, and then the tape will continue rolling off the air until is cued up, ready for the next insert which it determines by a previously inserted tone on the second channel on the industrial grade VCR. A different tone would turn on switching in the second tape deck and it could come either from your telephone line or the playback tone from the other deck. So your tower line tone machine listens to three sources, telephone line, and both tape decks. It can do six turn ons and offs depending on which of the six tones it hears. By using it with stepping relays you could double that to 12 functions which gets more complicated, so try to stay with the simple tone machine and six switch capability. Tone 1. Roll after ½ second roll in switch in video of tape deck A. Tone 2. Switch video off of a tape deck. Tone 3. Shut down tape deck A as ready for next start. Tone 4. Roll and after ½ second switch in video from tape deck B. Tone 5. Switch video off of tape deck B. Tone 6. Shut down tape deck B as ready for next start.

TVRO is switched on automatically when tape deck video is switched out. Now if you wanted to switch by telephone line tone to a different satellite transponder on the same satellite at the tower, you would need additional tone capacity either through more expensive machines with more switching tones and channels, or a stepping relay system which could double your capabilities with little additional expense but ups your error rate possibility.

At your site A, I would have used an antenna and specified cable that would have lowered in cost by about $1,500 but that would require amending. I'd start without the STL and apply and wait for a ten watt LPTV license downtown.

Site B, I'd say the same thing on your expensive antenna and cable but to change them would require modifying your CP. Using a simple translator here is a good move. Regarding studio, you likely do not need TVRO with rotation initially, nor do you need licensing or study because later when you have studio to tower link you'll probably move it downtown.

As far as VCR's you'll need initially two on the hill — maybe two downtown; one color camera OK but difficult; recommend two as labor saver (saves most editing).

BASED ON LOWEST COST POSSIBLE TO DO THE JOB, ACCEPTABLE TO VIEWERS — QUESTIONS AND COMMENTS:

1. Equipment needed, cost and source for local commercial insertion in satellite fed programming and local programs from VCR?

Now your question 1 — equipment needed for local commercial insertion. We are doing an article on that in a future issue so you are asking the question before I am fully ready to answer it, but basically you need, if you follow my leased telephone supplied control line (or two way type radio link) you will need two tone units. Two good VHS ½ inch tape decks, industrial grade and a stack of switching relays hooked in the right way and place. I hope to have one of these setups going in the next few weeks on a translator so you will be able to copy mine later because you undoubtedly still have some time before you are on the air.

2. Source and type and cost of color camera, microphone and VCR's, acceptable.

Regarding question two — source and type of color camera, microphone and VCR's — investigate all makes by writing to the individual companies and asking for information on their industrial grade ½ inch VCR's. I'll have that in a future article. In the studio I'd suggest at least one VCR that will do single frame advance and will do quasi editing (only a hundred or two more expensive but available only on the very latest models).

Regarding camera setup — see our story this June of the unit you saw at Dallas with two color and one B & W keying camera. You could start with one camera at about $1,100 wholesale ICTV member price or retail $1,400, and add the rest ($4,500 more) later. Then when you're in the black solidly later buy a broadcast quality camera as a master camera (available $3,500 up) and use one of the CCOll as a spare and for doing out of studio work, knocking around on the street, etc.

3. Any sources for installation or financing?

Question 3 — Installation and financing — are again set as future magazine articles in research stage and will try to have them by the time you need them.

4. Didn't quite get your explanation. How are pre-prepared VCR cassettes of commercials adapted or used for local commercials and where in Calif., Arizona or Nevada do I get them? What is the cost?

Question 4 — Who in California, Arizona or Nevada is currently doing pre-prepared VCR cassettes of commercials adapted for local commercials and where can I get them and what is the cost? Lots of places make them now, but they are 3/4 inch, and EXPENSIVE. You cannot afford to pay $500 for a commercial so we are trying to find people that will go in for quantity of ½ inch at low prices. You can already buy prepared slides for $5 each. Hang in there and we will try to dig these sources up for you in time. Remember, there has been no low power ½ inch market for commercial production until now and it's still a very small market.

Regarding cost, we are going to hang in there until we can get them produced for $25 and transported to you for under $35.

5. Did you say ½ inch or 3/4 inch tape is the preferred cassette? And why?

Question 5. Did you say ½ inch or 3/4 inch tape is the preferred cassette? Right now practically no broadcaster uses ½ inch, they all use 3/4 inch, but then again there have not been any LPTV stations, either. I am convinced ½ inch will be the standard for LPTV for 3 or 4 years and then ¼ inch. Today ½ inch is as good as 3/4 was three years ago. One-quarter inch is as good as ½ inch was three years ago. One-half inch has some advantages and some deficiencies. Most of the deficiency can be corrected by a TBC (time base corrector), which you actually need regardless, and can add later when solvent.

The ½"advantages are: 1. Far less cost. 2. Far less storage space. 3. Far easier and less expensive shipping. 4. Local people can tape and produce local programs and bring them to you for playing on your station. If you want local programs, let people in the community produce some shows with good home type equipment.

6. Do you know who I can contact for religious programming from satellite and what will they pay? How about other programmers?

Question 6. Some of them I already know but will be doing an article on which ones pay soon. For now, pre-sell your local churches on taping and running their church services and other programs on your channel at so much a week on a regular basis. They may consider getting a low power station of their own. They do not need one. They can get on your station for far less expense.

7. Explain again, the use of subcarrier for music, and how it's received in the home. Could it carry commercials and could you simulate your own FM station in this fashion?

Question 7. Well, the subcarrier thing needs to be gone into in depth again (see future issues), however maybe this will be good enough for now. Let us say you are going STV (subscription TV) at night and the scrambling (encoding) system you choose takes the sound off the regular TV set sound channel and hides it away (actually on a subcarrier) so only people who pay you for decoders that tune this sound back in for them. In that case your regular (4.5 Mh) sound channel is unused. You can then sell it to an AM station that goes off the air at night for night programming, program an audio channel yourself for people that just want music, etc., while they are ironing, washing dishes, etc., and instead of shutting the TV off tune over there for your audio.

Others use this regular audio channel for what is known as a barker, a voice repeating a commercial over and over about what a super movie you would be watching if you'd only spring for $20 a month and subscribe to this premium channel of TV and get your decoder.

8. Who sells that 20 milliwatt STL equipment, and how much?

Question 8 — Future article. Try Microwave Associates, Motorola and Hughes for now.

9. You mentioned if you obtain, for example, CBS affiliation, CBS would probably drop cable coverage in my market. What if your local cable system currently re-broadcasts Los Angeles CBS station. Is CBS going to stop the local cable system from carrying the CBS station from L.A.? Is that what you meant?

Question 9. You misunderstand some points. Let us say your LPTV station is in Utah 200 miles from the nearest CBS outlet. CBS gives you an affiliation agreement, you carry their programming off the satellite (service on the AT & T satellite is starting in June) and you abide by all network agreements and run without inserting commercials except where they say you can, etc. You get nothing in $ from them but you do get viewers. Nearly 80% of viewing even on cable systems is still the 3 networks. The satellite reception you rebroadcast will be near perfect. The cable system may be paying $1,000 a month or more to bring in the CBS station from 200 miles away and the quality will not be as good as the CBS you are running because it deteriorates on the way, whereas satellite reception does not. So your local cable system may decide, why are we paying all this money to bring in CBS when we can get it better for our subscribers from this new local low power station which runs CBS off the satellite and also runs local news instead of Salt Lake City news. So CBS has nothing to say about what off the air station the cable system carries, the cable system decides that. CBS would not likely allow the cable system to pick up and run it off the satellite direct when it comes on the AT & T bird in June, however; they would, I believe, legally have to pick it up only from the affiliate, and of course would carry the one giving them the best picture (that's you).

10. How do you put a tone on your own local commercials and what equipment is needed?

We have an engineering firm in Phoenix developing a tone system that responds to tones you generate with a touchtone phone. That same touchtone coding system is taped on the stereo channel of your VCR and will control any functions you want controlled. Their system, they estimate, should come in around $300.00 and you can control it without any additional expense or investment when using a phone line.

11. Do we have to use lights for anything local we might want to record on VCR tape? If so, what's your recommendation?

Question 11. The better the lighting the more professional the results. If you have a limited budget we will be showing you how to do lighting inexpensively. A low cost camera can put out very good pictures with the correct lighting.

12. STV seems a good way to go, but it sounds quite expensive. Are you aware of a low-cost system (what about Blonder-Tongue) and what cost? Where would you obtain the manpower for installation & maintenance?

Question12. See our article last issue and this issue on subscription and wireless TV. Yes B_T is working as an inexpensive system for LPTV. Mr. Blonder said they are shooting for a $2,000 studio encoder and $100 home decoder units fully addressable (can turn them off and on from the studio). They may have it on the market, he hoped, within one year.

Re: Manpower, I'd subcontract to some local trustworthy person. Let's say you use the inexpensive systems we mention or suggest this issue at a cost of $9 per house. You get a $25 deposit, pay $9 for the unit, $10 to the installers and put the rest out at interest. The deposit merely helps assure they will turn it in for a refund if they move out of the area, skip to another area and keep them from giving it to a friend, etc.

13. Does an LPTV station have to sign up with ASCAP, BMI & SESAC?

Question 13. Answer is yes but don't rush it.

14. What type microphone should be used with VCR and/or camera and does the VCR also record audio at the same time when it's recording video?

Question 14. A reasonably good $35 to $50 mike will probably work just fine and yes, it does tape both at the same time

15. Is it necessary to choose satellite programmer who puts tones, for local commercial insertion, on his programming — or do they all do it?

Question 15. No — you can do your own control tones but those that have it on already save you some labor. No, they do not all do it.

16. Had a long talk with the Bell System, at NAB, they will install all the earth station equipment you need and maintain it. You pay a monthly lease charge (like $800). Have you heard of this and do you consider it preferable to buying and maintaining your own TVRO?

Question 16. Bell TVRO's are fine but will break you up in business. You can do far better than that price wise, even on a lease maintenance.

The longer you wait the easier and better answers you will get on questions like program suppliers, etc. If you get down to the wire and we still have not given you enough program suppliers' names, call me.

Remember, there is no law you have to run certain hours. Yes, there are programs on now you can rebroadcast 24 hours a day free. But wait, there are more new ones coming on in the next few months and attitudes about supplying low power are changing rapidly. So I really wouldn't concern myself with some of these questions until 30 days before you go on the air because the answers will change and get better and better each month.

Believe me, programming is not going to be your problem in the long run. Getting on and covering lots of people is your most immediate problem, and hold off crossing the other bridges until you come to them for now.

You can get some really good video tapes free on barter, which means you get 'em free for the built in commercials, but I wouldn't consider anything I had to man all the time and ship back and forth. Go for satellite supplied programming. Turn it on and go out and spend your time selling commercials, and selling local news, weather and sports program along with some special event local programming, etc. You cannot afford to be labor intensive in the operation of a small town LPTV station. Quality off the satellites is usually far better than your tape reproduced or film programs and satellite fed programming requires no labor investment on your part. If you are cherry picking off the satellite (taking the best of different transponders at different times) you can get time controlled switching equipment which is preset; it then does the switching for you.

LO-POWER FM

FILING FOR LOW POWER F.M.

Those ICTV members considering filing for a low power FM station can now obtain from the Alliance the book on one week loan that you need to look up channel usage and figure availabilities. Ask for the FM book. One week free loan.

The Commission has granted one low power FM permit so far. The current FCC regime is committed to "less government" (but not more competition with present big broadcasters) so if you are considering setting up out in the middle of nowhere with little or no FM service there is no real reason why you shouldn't be allowed to rebroadcast satellite programming and do some local radio originations as well. By operating both one of these FM low power originating broadcast systems as well as low power TV you should be able to make both more economically feasible. Present rules are 1 watt east of the Mississippi and 10 watts west. Application is made on the same blank FCC form 346 with waiver requests, same as LPTV.

Last issue we reported on subscription systems and listed names of those approved by the FCC for broadcast use plus information on the new Maast system which we noted had not yet been sent in to be accepted by the FCC.

This issue we will explore another system that may be of interest to those of you particularly who have just gotten CP's (construction permits).

The question is, should you go for a large investment for the most secure (not easily stealable by cheaters) system now and take a chance that the rush for better engineering, less piratable systems nationally will soon produce far less expensive systems that are almost totally theft proof.

Then with your huge investment you are locked into the obsolete system.

An alternative in these presently being licensed rural areas may be a relatively simple system now at low cost. When theft of services becomes a problem, then later switch to a more expensive, more secure system that may be out and available by then. Remember, electronic prices are coming down constantly, not going up. What you save by waiting, may more than pay for the entire cost of the inexpensive system. You will then have the inexpensive system on hand for use in another station you own, or you can probably sell it to some other new LPTV small oper ator and get your money back. It may well turn out in rural areas that theft of services is not a problem. In areas that have MDS you can go around a neighborhood and see who has the special MDS receiving antennas on their roof and get a good idea of how many are stealing premium television if you know which addresses are paying subscribers.So how do you know who is stealing when you broadcast on a standard TV channel and they all have standard TV antennas?

Easy: You get a truck, put an antenna on it and drive around at prime time (night). By pointing the truck's antenna at the home's antenna, you can read out what channel they are watching on special test equipment.The local oscillator

reradiates a small level back out their receiving antenna and by detecting what frequency it is, you can tell which channel they are watching. If they are tuned into your scrambled channel and are not a paying subscriber, you can then post a brochure package, including literature on court actions against pirating, and about the benefits your service on their door and later go on from there if necessary.

With all that in mind, let us tell you about a scrambling system widely used in cable systems. It is called TEST, a registered trade name by Tanner Electronics Systems Technology, Inc., 16/30 Stagg Street, Van Nuys CA 91409 — phone 213-989-4535. This system is reported to be selling for $300 for the studio encoder, and $8.50 for home decoders on channel 2 to 6, and $9.50 on channels 7 to 12. No other broadcast channels are available. If you buy in quantities of 1000 or more you can reduce that price by 50¢ each. This system has a reported interference carrier inserted between the sound and picture. The decoders remove it. The main disadvantage is this interfering carrier reduces your program transmission by 3 db. (50%).

Reducing your power 50% does not lower your coverage by 50%. A rule of thumb that is close is that increasing your power 10 times will double the distance. So conversely, reducing your power 50% does not mean you cut the distance 50%. If you are greatly concerned about that loss, it may pay you to put a translator out a ways and use full power on it to extend your range. The translator can cost you under $5,000 (no $2,000 modulator required).

Another alternative is that you might want to request a second output of the same amount of power, say 10 watts, to be directed to a rural area or wherever, such as another town or area. You can request the additional output even if you have a C.P.

Then use the full original 10 watts that was going to go several directions in the original plan, to concentrate that full 10 watts in another area.

The additional outputs are under $2,000 each. Then when or if you go to a more sophisticated (expensive) addressable system you could still enjoy the increased benefit of the extra ten watts.

Next issue: More on subscription TV.

THE GREAT PAPER MILL RIP-OFF
OR THE GREENING OF LPTV HUCKSTERS' POCKETS

In the past, filing a full service television station license application was a major production that often required an investment of several thousand dollars to file. Meanwhile, filing a translator application, a microwave application, or two-way radio application was relatively simple and the manufacturer or their salesman helped you fill out the application and get it filed.

Then along came low power television and the structure set up for filing full power applications thought they had a new source of revenue here and since they were getting inquiries about LPTV from some of the same big broadcasters, they settled on a $3,000 or $4,000 price on filing an application of what was just a translator application with a few words requesting a waiver of the translator rules prohibiting local origination.

Now the big broadcasters were used to paying lawyers and the new people thought that was what you had to do to get a translator license. Now some of these Washington attorneys were including getting your application through comparative hearings if necessary and others would charge extra if there was a comparative hearing. Mostly the naive didn't know what they were getting.

Meanwhile, the manufacturers of translator low power equipment and their dealers continued to help their regular translator customers get applications filed but didn't want to be swamped with helping thousands of LPTV newcomer applicants file something that may never materialize since low power was a 'maybe' thing at that time.

So enter the paper mill huckster. Recognize low power has already generated something near 10 million dollars worth of business for application paper shufflers and it has hardly even gotten started yet. So here we have a major industry (remember, lawyers as a whole last year did more business than the U.S. steel industry).

The paper huckster appeared, who merely files anything and everything, and advertises extensively to different segments of the economy to invest in filing an application for LPTV. Price for this mass produced application mill starts at $4,000 and goes down to $2,000 each if you spend $50,000 or more.

How does the applicant know he is getting a good application filed? Well he is sold with dance studio type huckster techniques which include long distance phone calls nearly every day and convincing sales pitches on what a huge number they have filed, therefore, they must be experts.

Little do most of these applicants, paying $4,000 an application, know is that the majority of the 4,000 translators on the air paid little or nothing to file applications that became licensed and yet were likely far better engineered.

Take a look at some of these applications filed for $4,000. In a heavily wooded area, they file for a UHF channel at 1,000 watts when 3 VHF channels are available. The population lies at 4 distant points and they file for an omni antenna arrangement. They tell the FCC on the application and the applicant that it will cost under $60,000 to build the station when the specified antenna and transmitter alone sell for over $90,000.

A VHF at the same location with three or four 10 watt outputs with high gain VHF antennas would cover through those heavily wooded hills as well or better thanthe 1000 watt UHF. The cost of the VHF would be under $15,000 Did this applicant get $4,000 worth of professional service?

Take another application filed under the freeze and you'll notice it says it can be filed under the freeze because it is outside the grade B and then encloses maps showing it is inside two grade B's. What does it matter? They got their $4,000.

Take some that were filed that made the cutoff--out of 6--2 had petitions to deny filed against them because they had failed to look up what translators were in the area and filed on channels used by neighboring translators. The third had a full service application granted but not built that filed an objection on the remaining application.

So what recourse does the applicant have? Practically zilch. He could sue for malpractice maybe? Every person doing applications makes mistakes and overlooks something sometimes. However, for $4,000 bucks an application ought to be done at least reasonably well and if you'll check around the industry with the manufacturers and translators long time people will tell you, these are the worst applications filed. I am sure that when the FCC staff sees them, they are automatically suspect. Yet many think they are getting FCC expedited application processing by this so called professional 'application' firm. Actually they are probably getting automatic derail at the commission because of the reputation.

Why don't you check reputations with the manufacturers and dealers and installers before you pay big bucks for what is merely a $100 typing job, when they do their mass production standard form, everybody gets UHF 1,000 watts omni pattern(because that's easiest to file).

Washington attorneys can, and many do, follow your application up.

Other out-of-state firms convince you they have a Washington representative because they have a Washington phone number when it is actually one of those tricky telephone gimmicks that rings the Washington phone number in a state hundreds of miles away.

We don't intend to upset alot of people who paid a lot of money to have applications filed, but maybe some who haven't filed yet will check around the industry for reputation of what you get for your money. Others will discover you can do a better job yourself and just get a little professional help when you get hung up in doing the application.

CABLE TV WIRELESS!

The wireless cable concept of offering several channels on the air on VHF will only be feasible in the most rural areas, and those will go fast. Others will be filing for channels in the big markets and the Commission will not give you two and give some other applicant none when there are not enough channels to go around. In the medium populated areas, you will probably be able to go with a multiple channel wireless cable system on UHF, which will be three times as expensive to construct. In the major markets, which will be two or three years down the road until the Commission gets caught up enough to get to those, you will be lucky to get one channel.

So speed may be of the essence in getting applications in for the rural areas.

There are several misconceptions about running an advertiser supported channel. Some will, of course, be operating ad supported during the day and subscription at night.

Now most applicants think they have to allocate a lot of money for constructing a studio. Of course you can do that but if you want to just be in the money business you want to do as many stations (channels and cities) as possible now. You want to use every dime you can raise to get as many channels in as many places as you can have many more in the licensing or license process. That way you can keep building. Stay away from anything that ties up money or energy unnecessarily now. Many figure they only have enough energy and money to put one station on the air.

Here is an example of what you can do: let us say I get a license for a station in Smallsville. Smallsville has a radio station and a weekly newspaper.

Now, the local Smallsville newspaper and radio station are going to be in great fear of my TV station or stations. They're going to be afraid I'm going to take all of their advertising income away and they are going to be in dire straits to stay in business. They are ready to put up a big fight when I start operation, and they will cut their ad rates way down when I start to compete.

So I don't want to spend money (now, at least) on setting up production facilities, a local news crew, ad sales crew or whatever. So I go to the radio station and say, how would you like to take over all news, weather and sports. You tell them, you pay me $30 a day (or whatever your size coverage warrants). They sell the commercials, produce the programs, promote people watching, etc. They buy the camera or whatever they need and they figure out how to get it to your transmitter.

Now they are immediately promoting your station instead of trying to kill it. You have $900 a month income and you didn't do a thing. The radio station will be able to produce news, weather and sports for little additional staff.

Now you offer them another 30 minutes a day for other shows at $15 a day. They already have the facilities. They can even simulcast some regular radio show and get enough extra from advertisers. If that flies, then you have another $450 a month income.

Now you go to the newspaper and offer them an hour a day of classified time at $15 a day. They sell it along with their newspaper classifieds. It works because some people do not want to wait for several days for their ad to come out and this way they can get it in right away. They can throw in some news and public announcements. They buy a character generator which has a memory. They connect it to your transmitter via telephone line. Now you have another $450 a month income and you have someone else promoting the watching of your channel.

Next you go to all your church people in town and offer Sunday morning broadcast time at $35 an hour of the first choice time, $25 each for the next most desirable times and $20 for any other time on a regular basis. During the week regular weekly broadcasts are $15 an hour.

This should net you $100 a week. They use their own camera equipment, figure out their own problem of getting it to your transmitter.

Now there are a lot of other budding TV producers in your town including the local high school. Let them produce, sell the commercials, etc., of high school programs and buy or rent their own production equipment. Broadcast time on a random demand basis at $25 per hour. Every week basis $15 an hour. They get their own ads and sponsors.

Your investment in Smallsville is $6500 for VHF transmitter and antenna on the water tower, and $5000 for a good TVRO, a total of $11,500. You run a satellite channel that supplies programming to you free in exchange for commercial exposure. They also allow you to insert four commercials per hour which you can contract out to someone else. Sell these for $15 for a 30 second spot in prime time, and $7 in daylight hours.

If you do all this, arranging deals before you get on the air, you can have $3000 a month income or more right off on an $11,500 investment. No work on your part. Electric bill is about $8 a month tops. Rental on the city water tower is $25 a month. Maintenance is $65 a month, for a total of under $100.

You have given the entire community access to television programming and good reception to all. You are not controlling who or what gets said on your TV station other than prohibited obscenities, lotteries, etc.

When you own the cable system you put this channel not only on the air but you put it on a good spot on the cable. Then you use a second channel for a subscription channel, perhaps running local classifieds all day on that channel. Again, you can contract that out. Sign up with one of the program (movie) suppliers coming on that offers scrambled (encoded) on the satellite with an addressable system that allows them to do all the billing, turning on and off those subscribers who don't pay, etc. You contract with someone local to sell new subscribers, deliver encoders, etc. The programmer in this case does the billing and collecting and turning on and off, and pays you monthly off the top.

The other method, scramble your own, is for a presently operating cable system to just treat this and bill just as another subscriber. If you offer a third or a fourth channel, then of course you are getting into tiered encoding systems at the transmitters which can be expensive. Names of the FCC approved broadcast encoding systems appear in previous listings.

As for financing, many potential wireless cable systems or low power operators erroneously believe they are going to:

1. Be too busy to operate more than one low power station.
2. Have only enough financing for one station.

Go ahead, file for as many as you like.

A. You won't be licensed on all probably for one reason or another.

B. You do not have to build them all the same day or even the same year.

By the time you get one in successful operation ($3000 or more a month profit with none of your time) you will have a much greater net worth and additional financing will appear magically. Your net worth just improved over $150,000. The monthly magazine carries items on how you finance low power broadcasting systems.

In your single channel subscription system, plan on dividing your income of $20 per month per subscriber something like this: $5 to program supplier, $5 to decoder box leasing system, $5 to paying off encoding system and $5 to you. After 3 years you will only have the $5 payout to the program supplier and the extra $10 per month becomes yours. Your total overhead is still $100 a month, similar to the previously stated figures.

Billing and collection costs will run around $1 per subscriber if you contract. Repair, maintenance and replacement of boxes will probably run around 50¢ per month per subscriber if you can contract that. The first three years would leave you about $3.50 per subscriber; 900 subscribers would give you $3150 minus your $100 overhead would leave you the $3,050 equivalent of the ad supported station.

After three years the $10 per month leasing fee would have paid off your encoding and decoding systems. Your income would then increase by $9,000 per month or $12,500 per month. This exceeds the ad stations.

To expect the 900 subscribers within a reasonable time, you would need 2700 homes not covered or coverable by the regular cable system or established MDS.

You would have considerable investment in "selling" your service, to get the 900 subscribers, and should be looked on as an investment just as equipment is an investment. When and if you sell a subscription station it will not be priced at how much equipment or assets you have; it will be priced at how many subscribers you have.

The value of your wireless cable system "movie" station for resale would be $300 or more per subscriber.

The advertising supported stations should sell for about six or seven times yearly profit.

The ad supported stations may well be the least difficult and least expensive to get off the ground. However, the subscription system has the best prospect for long runs providing you do not have several low power competitors or MDS systems come on before you do. If you apply for several channels and "use up" or "tie up" all the VHF channels and you get on first, you make it almost impossible for an MDS or other UHF low power station to come in on top of you later and succeed in this small a market.

You will be able to offer two or three channels eventually at no additional charge if necessary to compete, so file for them now. At UHF investment prices they will not be able to come on later and compete in small markets of the size we are talking about here.

Many rural cable systems pick up stations which in turn pick up their network programming off the air from another station and then come through a several repeater microwave system, all of which degrades the quality of the picture so that those the farthest out in the most isolated areas have the poorest picture at the head end. Going through a long cascade of amplifiers adds additional noise and degradation which means even at optimum most rural systems rarely deliver the quality of picture of the network stations that they would like. Regardless of how many channels a cable system adds, 70% to 80% of the viewing are still those major networks.

A wireless cable system broadcasting free TV at least on one channel may be able to put out far superior quality to local residents of one or more of the three networks because he can go to the networks and say, I have a broadcast license and I want to be your local outlet and rebroadcast your network feed off the A.T. & T. satellite starting in June of '82.

The cable system operator will be forced to add the local low power station, particularly if the picture is superior to the long distance pick up of a regular full service network station. If the cable system owns the low power stations they may of course be able to stop paying for a long distance microwave feed of those network feeds.

It seems doubtful at this time that the networks would allow the cable systems to bypass their affiliates and pick up the satellite network feeds direct..

Therefore, merely putting a low power channel on the air and becoming eligible to be an affiliate, may save even thousands of dollars monthly in common carrier microwave service for a network land line terrestrial feed that many cable systems presently have.

If you put in a low power station and wireless system and you are not the wired cable system operator and you pick up a network affiliation, whether you will be able to scramble a network station or not will be something you will have to work out between you and the network. You would of course make it available free of charge to the land wired cable system so that you would pick up additional viewers (unscrambled) from the homes connected to the conventional cable system, thereby making advertising you carry more valuable.

There seems to be little doubt that a wireless cable system can succeed in a much smaller, less densely populated area than a wired cable system.

Start-up costs should be less than 20%, and often as little as 5% of the cost of starting a wired system. Cost comparisons with VHF channels, compared to MDS would be about 1/3 or less of the cost of a multiple channel MDS system.

Cost at each subscriber's house is about $50 or more per home less than MDS since no downconverter or special antenna are needed.

Another advantage of this new wireless cable system broadcast on standard channels is that it is not nearly as affected by leaves, trees and buildings as MDS.

MDS has kinky rules in that the transmitter owner must be a different entity than the programmer. Dummy companies are set up and other ruses are used. This is not necessary with the new service authorized by the FCC on March 4 on standard TV channels. The owner of these stations and the programmer can be one and the same.

When you lay out a wired system, you map out a system with amplifiers to cover a section of the city with adequate levels to deliver a good picture to every subscriber.

When you lay out a wireless cable system you can get by with just a head end and cover a 15 mile circle if you have a high point. If you have good line of sight and a very rural viewer wants to get you with the right antenna and preamplifier well up in the air outdoors, you can probably have paying subscribers up to 60 miles away.

In fact, some of these far out rural viewers may even put up the money to put in translators (donations basis) or even donate to you to put up translators you install to spread your coverage out to them. Some full service stations have promoted satellite booster stations on their original stations that came in poorly way out and asked for donations to build a Booster (full service repeater) out in the sticks to improve reception for these rural residents. TV neglected as they were they sometimes donated as much as $300,000 in aid of construction. Other areas have put in tax supported translators to extend the signal out, and this

may be possible for you to swing, at least on your "ad supported" free channel.

Cities and counties have both financed translator stations in hundreds of communities. In fact, in one recent cut off list of several dozen translators, nearly 2/3 were tax supported applications. There is no reason they won't switch over one of their present translators or pick up and extend your signal if you become a network affiliate with a better picture than the stations they are now carrying. Therefore you can often get extended cover even for up to 200 miles with repeaters, with many of those relay links at no or little cost to you. So when you get a construction permit you might immediately go out to the edges of your expected coverage and start fires of enthusiasm for translators to extend your signal to be sponsored in these local communities by donations and/or taxes.

When you have a whole row of translators covering several towns down the road, you may want to put commercials in individual towns but not on all of them and not on the originating unit.To downstream commercials you send full screen text during the vertical blanking interval on only one line. The vertical blanking interval is the space between frames when you roll the picture up. The information carried there does not interfere with the normal picture. Information is put on just one line digitally and is reconstructed on the other end to a full screen picture of text (includes some crude artwork). Cost right now (expected to be down by $2500 within a year) is about $5000 for the transmit end and $2,000 for each receive end. This can send individual viewed text convertible to dozens of transmitters and appear only on the individual translators you address.

Therefore you can go to an advertiser and sell them whichever towns or combinations they want at different rates. This is like the newspapers that sell regional ads and the advertiser pays only for the geographic area they want to cover. Your ad revenue can be exceptionally good because you can offer very reasonable rates. The ads are generated by character generator (typed in) and stored for automatic release at the predetermined time on the predetermined repeater station. The local advertiser pays only for his area at very reasonable rates and can get the ad on with very short notice. You would go to this method after you had competing advertisers want the same time spot in different towns and by then you would of course already be generating sufficient ad revenues to more than justify expenditures to be able to sell the same time spot on several different translators, to several different advertisers.

The same vertical blanking interval can be used to send electronic mail downstream, or connect intelligent word processors for companies, banks and other potential users and you can sell this communication link for a monthly fee.

You can also sell subcarrier audio service (with Commission approval) for background music systems and many digital information systems at a good price per month.

As you may or may not know, the income from the potential 20 subcarrier audio channels, and the vertical blanking interval 25 lines, can exceed the income from the picture. Sears Roebuck, Federal Express and others are filing hundreds of applications because they are interested in carrying catalog data, electronic mail and computer data, etc.

Cable systems have considerable data carrying capacity also but cannot cover and 100% blanket an area like a wireless low power system can. So one of your major sources of income in future years will be VBI and subcarrier.

Also unknown to many is the feasability of using the standard audio channels on television channels during subscription periods when an encoding system is used that moves the audio channel over to a special frequency not reproducible on an ordinary TV set.

Then the regular audio channel becomes available for other services and can be used for running repeating audio public service announcements, the TV program for the night, the local weather forecast, time and temperature automatically, etc., or it can be programmed with a live announcer and music, much as a local radio station. In fact you may sell it to a local AM station that has to go off the air at sundown.Many people would leave the TV on while reading, washing dishes, etc., if it can be used as a radio and merely switch to a scrambled channel and use it as an audio channel temporarily, between watching regular TV.

If you are a wireless cable system and use the type of encoding system that moves the sound over, then you have this standard TV sound channel available on several channels and could use the same audio on all channels that could be picked up by all non-subscribers and subscribers in the non-decoded mode.

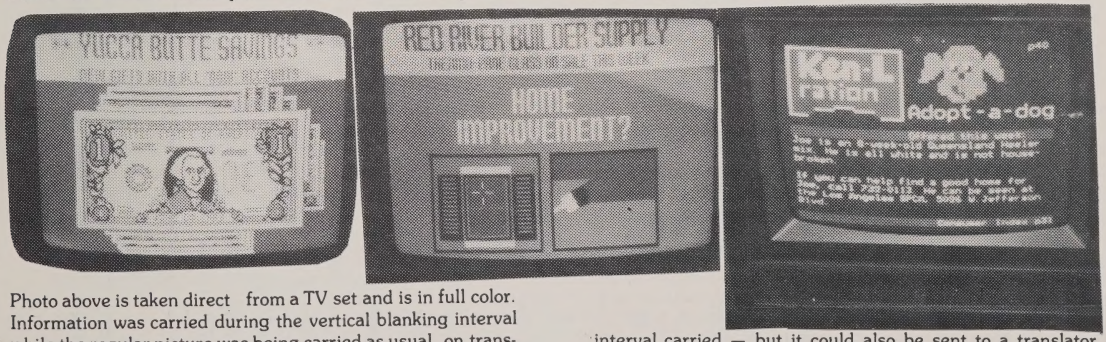


Photo above is taken direct from a TV set and is in full color. Information was carried during the vertical blanking interval while the regular picture was being carried as usual. on translators downstream that the commercial was wanted on but not on the originating station. The dollar bills started out small, multiplied and came forward on the screen, and George winked at you, so these do have motion.

The middle photo was in full color with the paint brush starting in the top corner of the little box and actively painting the square in bright blue while the audio commercial was telling about remodeling. This was also vertical blanking interval carried — but it could also be sent to a translator by telephone line and a modem since this is a computer generated picture. In other words, you could insert this type of computer generated and stored commercial on any low power station or repeater anywhere in the country by calling it up on an ordinary phone line.

The text on the right about dogs is also in several bright colors and the dog's tongue moves back and forth. A hardware commercial had a saw going up and down.

TABLE I

FREE SPACE PATH, SIGNAL RECEPTION DISTANCE

	VHF		VHF		UHF					
	10W Lowband Ch 2-6		10W Highband Ch 7-13		100W			1000W		
Horizontal Angle	Omni 20W ERP	90 80W ERP	Omni 40W ERP	90 160W ERP	Omni 710W ERP	220 1000W ERP	80 2450W ERP	Omni 7100W ERP	220 10,000W ERP	80 2450W ERP
Rabbit ears or loop indoors	3	6	3.5	7	3	4	5.5	9.5	12.5	17
Small outdoor	12	24	10	21	9	11	16.5	28	35	52
Large outdoor	17	34	15	30	15	18	28	47	56	88
Large outdoor w/ preamp	20	40	21	42	30	36	56	95	114	177

Low band in particular and to a lesser extent high band reception may be inhibited by man made noise and long distance co-channel interference.

Heavy foliage will reduce usuable distance of UHF signal to about 1/4 of above distances. Reception at distances in excess of 40 miles will frequently be limited by earth's curvature.

ERP (Effective Radiated Power) is typical practical value for transmitter power shown. Distances in this chart are based upon distances only and assume "free space" propagation path exists to receiving antenna.

REGARDING COVERAGE CHART LEFT.

The chart on the preceding page was assembled by the experienced translator and low power engineers at Television Technology in Arvada, Colorado.

These figures are based on being high enough to have line of sight, or as they say at the heading, "free space" path.

The Horizontal Angle column on right, for example, says "Omni — 20 W ERP, which translated, means: Omni — equal all directions, with 20 watts of Effective Radiated Power (ERP).

The next example is 90—80 W ERP, which means another antenna pattern covering a pie shape only 90 degrees wide which, with a good antenna, will give you 80 watts Effective Radiated Power only that direction. They show higher gain antennas on hi-band VHF — primarily because to get that much gain on low band (2 to 6) the antennas become overly large. That should help you understand the rest of the chart. You can obtain higher antenna gain with UHF because the antennas are smaller and can be more readily stacked (multiplied).

First figure height necessary to get the free space coverage you want. How you get that height is unimportant: hills, mountains, grain elevators, leased space on microwave towers, etc.

COVERAGE IS DEPENDENT ON GOOD RECEIVING ANTENNAS

The most important thing in how large a coverage you will have is height above average terrain, not power. Also, perhaps even more important than the amount of power your transmitter puts out is the amount of antenna gain your antenna array (antenna focus of radiation would be more correct) delivers.

More important even than the other two is what your customer is willing to do to get your picture. If you are in an area that gets little or no reception without large towers in the yard with elaborate antennas on top, then they are used to going to a lot of trouble to get television and they work and spend money to get your picture. This will have more to do with how many people receive and watch your programming than perhaps anything further you can do at your end.

So when you get on, since you are getting on with such a small investment, be sure and set some money aside to spend in getting to people out there aways, to inform them that, by working at it and spending a little money on good reception equipment, they too can get your new programming well.

Promoting the viewing of your programming and getting people to spend money to get you, is a big part of your original investment in getting your picture out to people. It will probably have more to do with your success than spending another $30,000 to raise your tower another 150 feet.

When you are in subscription TV, if you deliver the encoder you may wish to deliver along with it a cut channel 10 or 12 element yagi made just for your premium channel. Bought in quantity, you can obtain these for about 40% of the usual retail price. If you absorb ½ of the remaining cost, this will do more to add additional receivers than spending your money on transmission equipment.

If you have tied up all the VHF channels and are broadcasting on several for wireless TV cable, you could furnish the "fringe" people with broad band exceptionally good antennas at 20 or 25% of the usual retail price with you absorbing part of the cost and delivering it with your decoder. The customer pays for a high roof mast or tower and you pay part of the cost of the antenna (buying wholesale and selling below cost) and maybe even helping or paying for all or part of the installation. This is of course for the people way out that you normally would not get.

If you are operating only on one channel, by delivering or furnishing only cut channel yagis you have an antenna, then, that responds well on your channel but is not much good on other channels. Therefore, if you get a low power competitor come on another channel, the fringe people will get poor reception on any channel other than yours. They will say it must be that other station that isn't any good; it couldn't be the antenna, because it works great on that first station we got it from.

Yagis are made and tuned to individual measurements to respond very well to one specific channel. An additional advantage of VHF is that there is relatively little loss in the downlead from a tall tower or mast. With UHF and a tall receiving tower or long run to the set you need a low noise amplifier so that you do not lose all of the signal on the run to the set. In low power, you will need to do a lot of promotion to get people in the area to know that your signal actually goes out a long ways if they are willing to put up the right antenna system to receive it. This promotion cost should be considered as part of the building cost in starting not only a free channel, advertising supported but also in subscription wireless cable television. It is foolish to put all of your money in expensive equipment and not allow a good budget for getting people to put in good receiving installations. So when you plan start up costs, add money for getting viewers.

In full power they merely overwhelm a poor antenna installation to make it work. In low power, the right receiving installation will be absolutely crucial to obtain 60% of your potential coverage. If you fail to get people to put in the right antenna, then you will miss getting and keeping the outer area viewers you need to succeed.

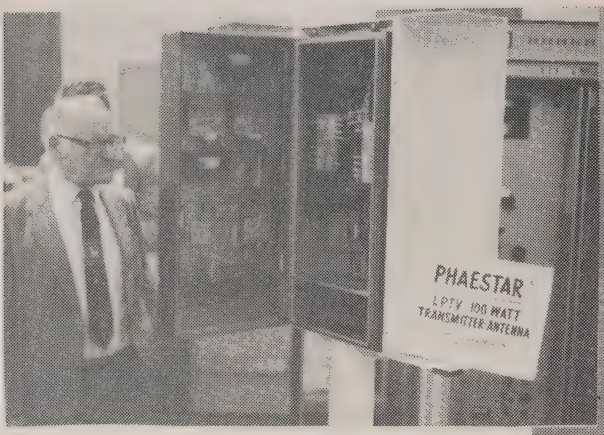
THE LAST GREAT BROADCASTING OPPORTUNITY IS KNOCKING ON YOUR DOOR

Your license will become more and more valuable over time. This has been the history of broadcasting over the years. Low-power is the first new service opportunity in 20 years. Also, the history of broadcasting has been that a new service allowed by the FCC to be licensed starts out at lower power and eventually it becomes apparent there is no logical reason why they couldn't have higher power, so the rules are changed to allow higher power. This will almost certainly come true again in the west, particularly in low power TV, which will evolve to medium power TV. It poses more of a problem regarding this power increase later when you are close to the Canadian or Mexican border because of communications treaties. When low power stations get on by the thousands, they will eventually have the political clout to get these unreasonably low limitations on power raised considerably.

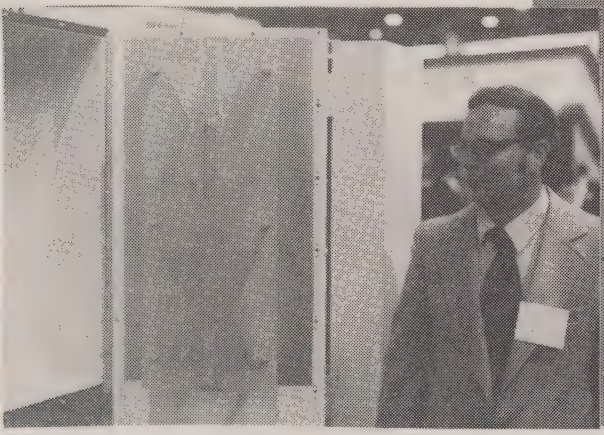
Wireless cable TV will also be wireless data delivery, wireless audio channel delivery, wireless electronic mail and wireless banking, catalog ordering, etc., etc.

Very few businesses started today make a profit the first year. By installing equipment that will sit and run unattended at low overhead and maintenance, a low powered ad supported and/or subscription and wireless cable can all be profitable from the day you start. You do not have to start with a big overhead. You can start with such a low overhead it will be impossible to fail.

The low power concept is indeed the opportunity of a lifetime. The question is, are you alert enough to open the door, now that the low power opportunity is knocking at your door.



One of the main disadvantages of UHF Television Low Power broadcasting is that with a very high tower, the cable transmission loss in going up a tall tower is so severe at UHF that in some cases going higher may actually result in less coverage due to less actual power arriving at the antenna than you gain in coverage by the increase in height.

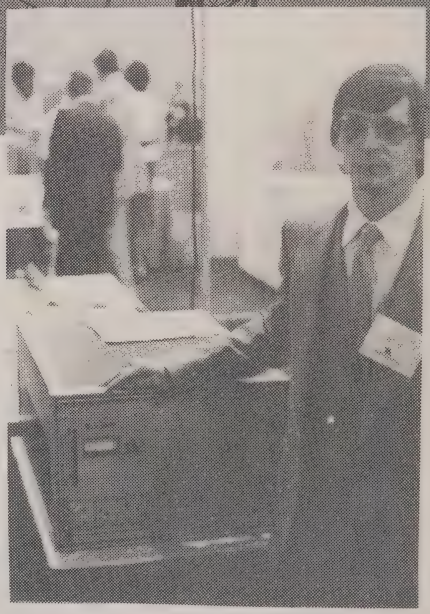


Townsend Industries has just come out with a UHF 'Final Stage' transmitter built right in a steel case on the tower in back of the antenna. Transmission power is 100 watts but is all solid state. Units can be stocked with 10 units to get a full 1,000 watts. This unit may be used with any type of UHF transmitting antenna. Middle photo shows a panel antenna on the back side with a fiberglass radome cover opened to the left.

The modulator and basic transmission unit that stays on the ground is shown in the lower right photo. Regardless of tower height each steel enclosed unit on the tower broadcasts a full 100 watts (or stacked a full 1000 watts) with no up cable transmission loss cutting power.

Townsend Associates
Box 1122 Mainline Drive
Industrial Park
Westfield, Massachusetts 01085

Top right photo is a tall tower showing methods of mounting yagi antennas on a large steel tower that is perhaps also serving other uses. Shown here are receiving antennas which are often stacked horizontally whereas transmission yagis are normally stacked vertically.



FINAL FCC LOW POWER TELEVISION RULES

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

FCC 82-107
30997

In the Matter of)
)
An Inquiry into the Future Role of) BC Docket No. 78-253
Low Power Television Broadcasting)
and Television Translators in the)
National Telecommunications System.)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: March 4, 1982 ; Released: April 26, 1982

By the Commission: Chairman Fowler dissenting in part and issuing a statement in which Commissioner Dawson joins; Commissioner Washburn dissenting in part and issuing a statement; Commissioners Fogarty and Rivera issuing separate statements

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APPENDICES

A. Rule Amendments

B. Amended Form 346

C. List of Commenters

D. Summary of Comments

E. Tiered Application Processing Procedures for Pending Applications

1. We have before us a document that culminates a lengthy proceeding in which we have considered authorization of a low power television service. This service in many ways is the logical extension of the existing translator service, which was authorized as a rebroadcast service in 1956. 1/ However, our decision today to permit far greater program flexibility than we ever have permitted on translators also may be viewed as inaugurating a new broadcast service. In today's telecommunications environment, we are witnessing the rapid development of a multitude of new and competitive technologies designed to deliver entertainment and information services to the public. The low power service will permit fuller utilization of the broadcast spectrum in service to those ends. It is fitting that we engage in initiatives that will allow broadcasting to maximize its potential to meet the needs of consumers as we also open the regulatory doors to purveyors of alternative technologies that will attempt competitively to meet similar needs.

I. History of BC Docket No. 78-253

2. A television translator is a broadcast station, operating at relatively low power, that receives a television signal on one channel, amplifies it and retransmits it on another channel. Over 3,000 translators are licensed today, under Subpart G of Part 74 of the Commission's Rules. 47 C.F.R. 74.701 et seq. The development of the present translator service previously has been detailed in several places in this docket, most notably in Appendix B of the Notice of Inquiry, 2/ in the Report and Recommendations in the Low Power Television Inquiry ("Staff Report"), 3/ paragraphs 11 through 46, and briefly, in the Notice of Proposed Rule Making ("Notice"), 4/ paragraphs 9 through 21. Therefore, we shall not reiterate this history here, but instead direct interested persons to the above-referenced documents for more detailed information. We do note that in the annals of the translator service one may find several examples of waivers authorizing program origination (via video cassette) and subscription service, the principal modes of operation that the Commission has proposed to permit generally via rule change, in the instant proceeding. 5/ These instances have illustrated the viability of a low power service substantially as proposed, though on a limited scale, and, as such, may be considered significant elements in the record of this proceeding.

3. This proceeding was initiated with a Notice of Inquiry in 1978. Citing various recent study reports, petitions and suggestions urging an expanded role for television translators, the inquiry posed the fundamental question: "what role may low power television stations and translator stations play in delivering programming to the public." 6/ Comments were requested on six "decision criteria" as the framework for initial policy development:

1. Public need for program diversity;
2. Spectrum requirements;
3. Interference to communications services;
4. Media competition and economic impact;
5. Low power/translator economic viability and ownership; and
6. Impact on Commission resources and service implementation delays.

68 F.C.C. 2d at 1536. These areas continue to be the major concerns in this proceeding. Resolution of these basic issues, which the rule making record provides, informs our determination of whether there should be a low power service and what it should look like.

4. The inquiry was concluded two years after its commencement, with the introduction into the record of the Staff Report and adoption of the Notice. The Staff Report documents the approximately 100 comments and reply comments filed in response to the Notice of Inquiry and also contains detailed staff analysis of the present television translator service and the potential for its expanded use as an originating broadcast service. The Report addresses and recommends an approach toward numerous aspects of the proposed low power service, within the framework of the six decision criteria. It also contains a report prepared under a Commission contract that describes the development of prototype low-powered television operations in the United States and Canada.

5. The Staff Report served as a backdrop for the contemporaneous Notice of Proposed Rule Making, which sought comment on a series of fairly explicit proposals for a new low power service. 7/ The Notice proposed generally that translators be permitted to originate programming and/or operate subscription service to any degree. It proposed that low power stations be permitted to operate on any available VHF or UHF channel on a secondary, noninterfering basis to full-service stations, at powers of up to 100 watts VHF (in certain instances) and 1,000 watts UHF. It proposed relaxation of Commission rules relating to program content and would tailor program-related statutory requirements to the limited technical capacity of

1/ Report and Order, Docket No. 11611, FCC 56-44 (1956).

2/ 68 F.C.C. 2d 1525 (1978).

3/ Couzens, M., et al., U.S. Government Printing Office No. 721-146/134 (September 9, 1980).

4/ 45 Fed. Reg. 69178 (published October 17, 1980).

5/ See, e.g., Unalaska School District (BPTTV-4857) and City of St. Paul (BPTTV-4858), Report No. 11887, October 25, 1973; Leeco TV, Inc., 9 F.C.C. 2d 1028 (1967).

6/ 68 F.C.C. 2d 1525, 1527 (1978).

7/ The proposals will be addressed specifically below.

the station. Finally, the Commission proposed to continue authorizing translator stations, including applications for translators seeking low power features on a waiver basis, during the pendency of the rule making. Interim grants would be conditioned upon the outcome of the rule making. Where the outcome of an application would depend upon an issue to be resolved in the rule making, such as comparative criteria, action would be deferred until the conclusion of the rule making. The rationale for this was that to stop processing applications in the conventional translator service, whose merit already was amply proved, would disserve the public, but that to refuse to consider applications seeking low power features would encourage disingenuous translator applications from parties whose real interest was low power operation.

6. The interim processing policy cannot be deemed successful in facilitating prompt implementation of the service. 8/ Nevertheless, it highlighted the importance of the sixth decision criterion, in paragraph 3, supra, providing an invaluable indication of the potential demand for the service and an object lesson regarding the necessity for additional administrative and technical refinements in the proposals that could not have been anticipated without practical experience. The notion of interim processing itself was controversial, spawning two lawsuits. In Little Rock Television Company, et al. v. FCC, 646 F. 2d 1271 (8th Cir. 1981) per curiam, the court dismissed, on grounds of jurisdiction and ripeness, a challenge to the Commission's extension of a cut-off date. 9/ In Corporation for Public Broadcasting v. FCC, No. 81-1075, the United States Court of Appeals for the District of Columbia Circuit was asked to adjudicate the claim that interim allocation of spectrum for low power stations prejudices noncommercial applicants, who require more time to secure funding for applications than do their commercial counterparts. The suit was dismissed at the request of the petitioner in October, 1981.

7. In addition to the court challenges, the unexpectedly large number of interim applications filed brought to the Commission's attention a technical inadequacy in the low power proposal. The existing rules, amendment of which was not proposed, prohibit translator-to-translator interference, but essentially leave the judgment as to whether a proposed translator is mutually exclusive with existing translators or other applications to engineering

8/ To date, approximately sixty-five interim translator grants have been made in the continental United States, eight including a waiver for low power features. Over one hundred additional interim grants have been made for low power operations in the State of Alaska.

9/ A cut-off date is the deadline for filing petitions to deny and competing applications with respect to applications previously published on a cut-off list of applications ready and available for processing.

discretion. 10/ This approach was sufficient for the largely rural translator service, where mutually exclusive applications were unusual and the relatively low volume of applications permitted extensive manual analysis. However, during the pendency of the rule making, over 7,000 applications were filed. 11/ Many of these were in major markets and were obviously mutually exclusive with each other, but without precise translator-to-translator exclusivity standards that permit automated analysis, it was impossible formally to determine mutual exclusivity. To remedy this, a Further Notice of Proposed Rule Making was issued, augmenting the technical proposals in the Notice with a prohibited contour overlap mode of processing that can be substantially automated. 12/

8. The United States Congress also involved itself with the administrative dilemma posed by the great number of applications filed. The Omnibus Budget Reconciliation Act of 1981 amended Section 309 of the Communications Act to permit random selection among competing telecommunications facilities applicants. 13/ This was intended as an alternative to time-consuming comparative hearings:

> The conferees are particularly concerned with the delay that will result if comparative proceedings are used to award licenses for low power television service. The Commission has already received over 5,000 applications, most of which are, or will be mutually exclusive with other applications. Unless alternate procedures are devised, the Commission will have a geometric increase in comparative hearings and many years of delay in action on these applications. The conferees note that a matter such as this is ideally suited for the application of random selection procedures. By authorizing the Commission to apply random selection to any license application already submitted, but not yet designated for hearing, it will be possible to process low power television applications rapidly on a random selection basis.

10/ Each translator application is examined on a case-by-case basis; separate calculations are performed regarding other authorized spectrum users to which the proposed facility could cause interference. Fixed coordination distances or protected contours are not utilized between translators; rather, engineering assessment of each particular case is relied upon.

11/ When it became clear that the existing method of processing was inadequate to deal with this magnitude, the Commission stopped accepting additional applications, except in areas where the need for service outweighed the administrative burdens. See, Memorandum Opinion and Order, 46 Fed. Reg. 26062 (published May 11, 1981).

12/ 46 Fed. Reg. 42478 (published August 21, 1981).

13/ Public Law No. 97-35, 95 Stat. 736 (August 13, 1981).

Omnibus Budget Reconciliation Act of 1981, Conference Report, H.R. Rep. No. 97-208, 97th Cong. 1st Sess. (July 29, 1981), at 898. In accordance with the Congressional authorization, we commenced rule making seeking public comment upon general proposals for implementation of a random selection system with preferences for underrepresented groups or individuals. 14/ The proceeding was terminated on February 8, 1982, with the Commission's conclusion that, on the basis of the record adduced, it would not be feasible to implement a system of random selection within the constraints of the legislative provisions. 15/

9. We have received numerous comments and reply comments on both the Notice and the Further Notice, as well as comments in the lottery proceeding relating to low power application processing. 16/ From the voluminous record developed to date and the practical experience we have gleaned via the interim processing policy, we have been able to distill the following regulations for a low power television service. We believe the rules set out below will fulfill the multiple goals of satisfying public demand, protecting the rights of other broadcasters and affected telecommunications services, not prohibitively burdening Commission administrative resources and generally furthering our current regulatory policies and those established by Congress.

II. Overview

10. The basic issue presented in this proceeding simply is: should there be a low power service? This question must be addressed in several levels, both theoretical and practical. As the recent past has shown, we also must consider the relatively great administrative resource impact that implementation of the low power service will have upon the Commission. This is a particularly significant consideration, in light of present budgetary constraints that mandate austerity at the Commission. Nevertheless, weighing all the factors, we are convinced that the benefits of the low power service will outweigh its costs to the public. The most persuasive evidence for this conclusion are the pleadings comprising the record. The comments overwhelmingly favor institution of the low power service. As the comment summary reveals, a variety of modifications to our initial proposal are suggested. Among them are some proposals with which we are in accord; these are reflected in the rules and policies promulgated herein, which, it will be noted, do not in every instance track our initial proposals. Other comments propose changes in our proposals that, on consideration, we find unrealistic or impracticable, or simply not in accord with our policy goals. Nevertheless, the record adduced in response to the Notice airs thoroughly the major issues in this rule making and contains commentary representing a variety of interests. What is most noteworthy is the paucity of direct opposition to the concept of a low power television service.

14/ Notice of Proposed Rule Making, In the Matter of Amendment of Part 1 of the Commission's Rules to Allow the Selection from Among Mutually Exclusive Competing Applications Using Random Selection or Lotteries Instead of Comparative Hearings, Gen. Docket No. 81-768, FCC 81-524, 46 Fed. Reg. 58110 (published November 30, 1981).

15/ Report and Order, Gen. Docket No. 81-768, adopted February 8, 1982, 47 Fed. Reg. 11886 (published March 19, 1982).

16/ A summary of comments is attached hereto as Appendix D.

11. Our first decision criterion was "public need for program diversity." It is self-evident that additional stations will provide additional programming. How "different" this additional programming will be is not readily determinable; however, the analysis in our Radio Deregulation proceeding provides a basis for the inference that provision of additional outlets can act as an incentive for licensees to provide program diversity. Report and Order, Deregulation of Radio, 84 F.C.C. 2d 968, 1981. In addition, we believe that the record evidences a public desire for additional television service, as well as a belief that low power stations can provide diverse programming. We have concluded, however, that the specific nature of the programming is properly left to the licensees' discretion, based upon the mandates of the marketplace.

12. Local programming usually has been an important service objective in the broadcast services (see, Sixth Report and Order, Docket Nos. 8736, 8975, 9175 and 8976, 41 F.C.C. 148 (1952)), an objective that the low power service is particularly suited to carry out. The comments are in accord on this issue; however, they differ in their recommendations as to how we might achieve this objective. In our deliberations, the issue becomes: acknowledging the public desire for additional television stations with the potential to provide diverse or local program service, what should be the Commission's role in determining the precise nature of the program service?

13. In general, we are reluctant to mandate that particular kinds and amounts of programming be aired, substituting our decision for market mechanisms. First and foremost, to do so would run afoul of the discretion we must afford to the program decisions of licensees, under the First Amendment to the Constitution and our long line of precedent upholding that discretion. See, e.g., Columbia Broadcasting System v. Democratic National Committee, 412 U.S. 94 (1976). Second, even where we perceive a need to adopt a hands-on policy toward low power program content, we historically have found less intrusive means of effectuating that policy. The law constrains us to choose the least drastic means of achieving even a legitimate governmental purpose that has the incidental effect of intruding upon protected freedoms. See, Shelton v. Tucker, 364 U.S. 479 (1960); U.S. v. O'Brien, 391 U.S. 367 (1968). In the past, we have sought to achieve programming objectives by means of more or less content-related regulations, such as ascertainment. See, Report and Order, Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 F.C.C. 2d 650 (1971). As the radio service became more directly responsive to consumer demands, however, we found it unnecessary to continue to impose this obligation on licensees. See, Deregulation of Radio, 84 FCC 2d 968 (1981); reconsid. denied, 87 FCC 2d 797 (1981).

14. In our deliberations, we remain mindful of the fact that, while low power television indeed is a broadcast service, its technical and operational differences from full service television inform different sets of regulatory decisions. Title III of the Communications Act sets out the basic precepts of broadcast regulation, but affords the Commission considerable latitude in their interpretation and application. 17/ Generally, our broadcast rules and policies proceed from the assumption that broadcast stations serve the public interest when they meet the programming needs and interests of all elements of the community. The Commission has attempted to achieve its regulatory objectives regarding programming by both content and structural rules. However, in light of the nature of the low power service, particularly the small and undefined coverage areas of low power stations, a concern that all elements of the larger community be provided with program service is not present. In addition, it is likely that low power stations will have to be very directly responsive to the interests of local consumers, to assure economic viability. In light of these factors, it is our judgment that minimal regulation of low power television is in the public interest notwithstanding the fact that it is a broadcast service.

15. We carefully have considered the option of imposing no regulatory mechanisms, direct or indirect, and instead relying exclusively upon market forces to achieve diversity of programming. (This approach seems suited to the low power service, in which we have proposed, and will apply, only minimal restrictions upon the free transferability of stations.) Further, low power stations may be constructed, and presumably transferred, at relatively low costs, and their small coverage areas lend themselves to programming to suit discrete groups in a community. In this environment, where licensees are likely to be directly responsive to audience desires, we believe there lies a very good possibility of consumer sovereignty. Thus, if the market works to establish consumer preferences, we must ask if anything is to be gained by imposing regulations designed to achieve those same ends. The Commission need engage in this sort of intervention only when factors exist that significantly impede consumers from influencing program fare. On the basis of the rule making record in this proceeding, we find no likelihood that such a market failure will occur. In addition, we are reluctant to burden an untried service with regulations that could prove unnecessary. Accordingly,

17/ For example, subscription radio operation using an FM subcarrier has been treated as a hybrid broadcast service and, on that basis, been exempted from statutory provisions otherwise applicable to broadcast services. See, KMLA Broadcasting Corp. v. Twentieth Century Cigarette Vendors Corp., 264 F. Supp. 35 (C.D. Cal. 1967); Greater Washington Educational Telecommunications Association, Inc., 49 FCC 2d 948 (1974). And the legal appendix to the staff report Policies for Regulation of Direct Broadcast Satellites (DBS), F. Setzer, et al., FCC, Office of Plans and Policy (October, 1980), raises the question of whether subscription television is properly considered a broadcast service.

we resolve our first decision criterion with the conclusion that the low power service, as authorized herein, is likely to provide program service that is responsive to public demand without the necessity of regulatory intervention by the Commission. 18/

16. Another issue that is critical to our conclusions is what might be considered the opportunity cost of low power, in terms of utilization of spectrum. That is, what are the legitimate, competing claims to the spectrum we have proposed for low power stations, and to what extent will they be precluded by the authorization of the low power service? Our second and third decision criteria, spectrum requirements and interference to communications services, focus upon this issue. A good deal of commentary was devoted to these questions, primarily from other users or would-be users of the frequencies that would be used by low power licensees. Full service television stations are the primary users of the radio frequencies at issue. Many voice the concern that low power stations will be permitted to encroach upon their primary status. Land mobile services share some of the channels at issue with television stations. Their representatives also fear encroachment by low power users. Another concern, raised in the Notice, is the possible use of auxiliary broadcast services by low power licensees, and the possible scarcity of television microwave spectrum that could result. The availability of frequencies for television microwave uses may be essential to continued local coverage, both for full service and originating low power stations. Although we received little commentary on this issue, we believe it warrants consideration as a primary spectrum management concern arising from the low power proposal. Finally, cable systems, at various points in the distribution system, and multipoint distribution services, at the converters that provide the TV input signals, make use of TV broadcast frequencies. Because this use of spectrum does not require radiation of signals on frequencies allocated for broadcast use and operates on a nonpreclusion basis to broadcast stations, it has not been necessary to license it. Although cable and microwave operators generally have been able to use available television channels without interference to the primary users, they have evinced concern that authorization of low power stations will preclude them from spectrum that heretofore has been available for their use.

17. Our evaluation of the record and the technical questions involved in these issues has convinced us that we are not faced with an either/or situation, in terms of spectrum utilization. First and foremost, we intend to maintain the secondary spectrum priority of low power stations, a policy that assures protection from interference to full service stations. Secondary spectrum priority has two aspects: low power stations may not cause objectionable interference to existing full service stations, and low power stations must yield to facilities increases of existing full service stations or to new full service stations where interference occurs. A similar policy holds true where land mobile services currently share primary use of some UHF spectrum with full service television. In paragraphs 24 through 46, infra, we have defined the parameters under which we will authorize low power stations in relation to land mobile and full service stations, and thereby have defined criteria for predicting objectionable interference. We also have come to believe that auxiliary services used by low power stations and the other auxiliary broadcast services can coexist, as discussed in paragraph 47, infra. Finally, we believe that cable and MDS systems will be able to adapt to an environment in which low power stations use the radio spectrum. These services' use of broadcast frequencies is subject to nonpreclusion of all other authorized broadcast users. We are convinced, though, that the likelihood of interference problems arising warrants a minor change in the policy proposed in the Notice with respect to cable systems. See, paragraph 45, infra.

18. In brief, we have concluded that the competing uses for television spectrum all may be accommodated, in varying degrees. However, we also recognize that this spectrum is becoming crowded, and, with the exception of full service stations, whose primary use of this spectrum is assured, no one set of interests can receive all they have sought. We believe that this is a situation in which it is feasible and indeed desirable to attempt to partially satisfy all competing claims, and it is well within our discretion to do so. See, Goodwill Stations, Inc. v. FCC, 325 F. 2d 637 (D.C. Cir. 1963); Coastal Bend Television Co. v. FCC, 234 F. 2d 686, 690 (D.C. Cir. 1956); Loyola University, et al v. FCC, Nos. 80-1824 and 80-2018, slip op. (D.C. Cir., January 26, 1982).

19. Our fourth and fifth decision criteria, media competition and economic impact and low power/translator economic viability and ownership, are interrelated to a large degree, and are amenable only to speculation until the service is operational. The record does not contain convincing evidence that the low power service could have a competitively destructive impact on existing broadcast, cable or microwave stations. Nor does it contain convincing assurance of the viability of the low power service. Indeed, whether low power will be viable at all appears more uncertain than whether it will pose an undesirable competitive threat to existing facilities. For this reason, we have structured our ownership criteria to permit existing licensees to engage in low power ventures within the limits imposed by the comparative criterion favoring diversification of broadcast interests. To the extent that this may preclude new entrants later, the value to be gained from permitting experienced broadcasters to develop the service initially is believed to outweigh the possible loss of new entrants. In sum, we believe that the balance we have struck will foster a low power service that can grow to provide program alternatives to full service stations and cable systems in a manner that increases competition in the marketplace and thus enhances the telecommunications service available to the public.

20. We already have alluded to our sixth decision criterion, impact upon Commission resources and service implementation delays. This has proved to be the most critical and troublesome element of all. Throughout this proceeding, we have struggled to solve the dilemma posed by the early deluge of applications. Indeed, our experience with interim applications has been invaluable in informing our deliberations regarding the administrative tools required for implementation of the low power service. Our solution to this dilemma is detailed in paragraphs 51 through 74, infra. Briefly, we are not now proposing to lift the freeze on new applications that was imposed on April 9, 1981. 19/ Before considering termination of the freeze, we shall identify applications that are mutually exclusive with applications that already have been cut off, 20/ place them on a "B" cut-off list, process those applications and either grant or designate them for hearing, as circumstances dictate. This processing will occur in several phases, beginning with the most rural applications. See, Appendix E. The cases will be set for hearings as our resources permit. When the processing of the currently cut-off applications is completed, the Commission will publish cut-off lists of applications on file that were neither mutually exclusive with applications on the existing cut-off lists nor cut off at the time of the freeze. The freeze will be lifted for acceptance of applications in competition with those on cut-off lists, and processing will continue in the manner described above.

21. The hearing process obviously will be time-consuming. When and if a system of random selection is instituted for choosing among competing broadcast applications, it, of course, will be applied to low power. Until such time, it would behoove competing applicants to settle their conflicts privately and resolve mutual exclusivities prior to hearing. We strongly encourage plans that involve time-sharing and pooling resources, which could be especially beneficial in light of the fact that low power is a new service whose viability is as yet undetermined. We shall make every effort to rule promptly on all settlements among competing applicants, under Section 311(c) or (d) of the Communications Act of 1934, as amended, and Sections 73.3525 and 73.3568 of our Rules. The use of largely paper hearings should shorten the time until authorization considerably. We are reallocating our staff resources to the extent possible to process the backlog and new applications expeditiously, within existing budgetary limitations.

22. We recognize that the hearing process can be needlessly cumbersome, particularly in a secondary service. However, we have not been able to develop acceptable alternative procedures within current legislative constraints. We have attempted to devise somewhat streamlined comparative hearing procedures. Furthermore, we intend to restrict the types of pleadings and issues we shall entertain during this abbreviated hearing process, to a degree consistent with the nature of the low power service. See, paragraphs 65 through 68, infra. We continue to believe that both a lottery and modification of the hearing process may be essential to improving our efficiency with reduced staff; however, we do not believe this proceeding is the appropriate vehicle in which to modify all our practices and procedures that may affect other broadcast services, particularly in light of the functional differences between full service and low power stations. 21/ As we have indicated, we are making every effort to expedite the processing of low power applications, both with increased staff resources and computer capacity. However, some of this burden quite properly falls upon the applicants. If, given the strong incentive to settle privately or opt for paper hearings, we still are confronted with thousands of competing applicants insistent on hearings, we cannot promise prompt authorizations. The Commission is committed to elimination of the backlog; but we have discovered no magic formula for this.

23. Our conclusion that low power applications should be processed similarly to other broadcast applications is related to a broader policy issue: to what extent should the rules for low power stations diverge from the analogous rules for other broadcast facilities? As stated above, this proceeding is not intended to set broadcast policy generally. In some instances, however, low power can provide a useful test case for more general deregulatory initiatives. On the other hand, there are other areas where we believe it is more sensible to decide a particular issue in a separate proceeding designed to air all aspects of that issue alone. For example, it has come to our attention that some low power applications propose a teletext service. Because we are looking into the advisability of teletext-related service generally, (see, Notice of Proposed Rule Making, Amendment of Part 73 to Authorize Transmission of Teletext by TV Stations, BC Docket No. 81-741, 46 Fed. Reg. 60851 (published December 14, 1981)), the issue of whether the same or different rules for teletext should apply to low power stations, on account of their singular service capability, will be resolved in our separate proceeding on teletext. Finally, while we have several "unregulatory" initiatives underway, and a number of additional ones are contemplated, we do not intend to dispense with rule making and enact them in the low power context, rather than awaiting the results of the separate proceedings in question. We do intend, however, to resume acceptance of applications for experimental stations that propose novel uses of low power technology, at such time as we have eliminated the present processing backlog and otherwise lifted the freeze on acceptance of new applications. 22/

19/ Because we are deciding not to abrogate the freeze herein, the several pending petitions for reconsideration of the freeze will be dismissed, as will pending requests for waiver of the freeze that do not raise a novel and compelling public interest ground for waiver in a particular unique situation.

20/ The pre-freeze cut-off lists were published at 45 Fed. Reg. 70974 (October 17, 1980); 45 Fed. Reg. 8114 (December 9, 1980); and 46 Fed. Reg. 12852 (February 18, 1981).

21/ We are committed generally to reduction or elimination of unnecessary regulations, see, e.g., Report and Order, Deregulation of Radio, 84 F.C.C. 2d 968 (1981); reconsid. denied, 87 F.C.C. 2d 797 (1981); Revision of Application for Renewal of License of Commercial and Noncommercial AM, FM, and Television Licensees, 46 Fed. Reg. 26236 (published May 11, 1981). It goes without saying that any proceedings that accomplish this task with respect to relevant rules will apply to the low power service.

22/ We stopped accepting applications for such experimental stations on April 24, 1980. See, Public Notice, FCC 80-262, April 29, 1980. cont.

III. Issues Relating to Channel Allocation

24. Spectrum Priority. Although some parties urge us to do otherwise, it is our firm intention that low power stations remain secondary, in terms of spectrum priority. While we agree with parties averring that low power stations can provide needed and meaningful service, we point out that the coverage obligations to which we subject full service stations specifically are designed to ensure maximum service to the public, beyond what we shall require of low power. This fact, we believe, constrains us to ensure the continued primacy of full service stations by emphasizing the secondary status of low power stations. We also emphasize, though, that while the rules for the low power service are intended to protect the public's expectation of service from full service stations, we do not intend to cater to full service licensees' unreasonable fears of competition from low power stations, and fetter the low power service for that reason. We believe low power can provide competition that stimulates the entire telecommunications marketplace.

25. The record indicates that not all parties share a common understanding of the concept of secondary spectrum priority. Under the Commission's present rules (Section 74.703) and the Notice of Proposed Rule Making, secondary status means (1) a low power station will not be authorized where there is a possibility of objectionable interference to an existing full service station, under the standards prescribed herein; (2) an authorized low power station that causes objectionable interference to an existing full service station is responsible for eliminating the interference, or the low power station must cease operation; (3) an existing low power station that would cause interference in connection with a proposed increase or modification of facilities of an existing full service station or in connection with a proposed new full service station is responsible for eliminating the interference, or the low power station must cease operation. These are the rules under which low power stations will operate. The notification and reporting provisions in Section 74.703(c) and (d) will continue to apply with the one modification proposed in the Notice and advocated by Citizens Communications Center, the National Telecommunications and Information Administration and the National Translator Association, to wit, that low power stations need not cease operation until they have been proved by the complaining party to be the cause of the interference complained of, but they must cooperate fully in tests to determine the cause of interference and remain willing to cease operation at the request of the Commission. 23/ "Interference" as it is used in this context is discussed in the following paragraphs, to facilitate a common understanding among all parties of when interference will be predicted to occur.

26. In agreement with parties urging that we develop more detailed interference prediction criteria, we proposed desired-to-undesired (D/U) signal ratios to define the relative signal strengths of the dominant and interfering signals, both in the low power-to-full service and low power-to-low power contexts. After evaluation of the comments received in response to the Further Notice, we remain convinced that a modified prohibited contour overlap standard is the preferable method of predicting interference, in order to promote spectral efficiency. We therefore delete from our rules the UHF spacing requirements of Section 74.702(c). We do note that, making a few conservative assumptions, a set of mileage requirements can be derived. While processing will be based on prohibited overlap criteria contained in the rules, detailed calculations are not required of the applicant and unless an unusually high power (greater than 20 kW UHF ERP or 100 watts VHF ERP) or antenna height (greater than 500 feet above average terrain) is anticipated, applications meeting the following full spacings should have no conflicts with full service stations:

	Full service station is:	
VHF	co-channel non-offset	210 miles
	co-channel offset	150 miles
	±1 channel	90 miles
UHF	co-channel non-offset	210 miles
	co-channel offset	150 miles
	±1 channel	75 miles
	±2, 3, 4, 5 channels	20 miles
	+7 channels	60 miles
	-14 channels	70 miles
	-15 channels	75 miles

In many cases, prohibited overlap processing will allow grant of applications at smaller mileage separations. However, applicants are reminded that applications not meeting the prohibited overlap standards will be returned, so, particularly in areas where low power demand exceeds available spectrum, the proposed technical facilities should be carefully selected. Because of uncertainties inherent in predicting propagation, variations in equipment characteristics and the fact that we are, in essence, attempting to add a significant number of additional stations to a long-established allocations scheme, instances of interference from, to and between low power stations may occur. Indeed, in certain circumstances, there may be a potential for significant interference. We have attempted to adopt criteria that strike a balance between concerns over interference and a desire to maximize the benefits of a new service. As low power stations are authorized, and cases of interference are called to our attention, it is our intent to identify categories where it may be appropriate to refine our criteria to take into account special circumstances, such as overwater paths or superrefraction and ducting, in which we would want to be more restrictive in low power authorizations. Intensified efforts also are underway by propagation scientists and engineers at the Commission, NTIA/ITS, other agencies and private organizations to improve the accuracy of propagation predictions in general and to develop practical criteria that can be incorporated into Commission deliberations and assignment decisions. For example, the Commission's Office of Science and Technology has an on-going project in cooperation with NTIA/ITS to collect propagation data in Southern California where superrefraction has created problems for a number of years. Data collection is scheduled to continue through October, 1982, leading to development of a more realistic propagation model for that area.

27. Distance Separations. Some parties asked that we retain the UHF separations, add VHF separations and/or adopt mileage separations to govern between low power stations, or that we promulgate a table of assignments for low power. We decline to do either, for several reasons. These approaches do not comport with the secondary nature of low power stations. They are less spectrally efficient than the prohibited contour overlap standards we have proposed. Finally, we believe a table of assignments would represent an unnecessarily rigid approach in a demand-driven service where we are fostering marketplace sovereignty. In the words of Gannon and Grange, "Communities need not rely on the Commission's clouded crystal ball for an access to spectrum space, but on market forces which will result in an efficient and quick allocation of spectrum space." 24/ Within the constraints necessarily imposed by our prohibitions upon objectionable interference, which will be strictly enforced, we believe the public interest best will be served by our permitting applicants to locate their stations and configure their service areas as market conditions dictate. The mandates of Section 307(b) of the Communications Act are fulfilled by virtue of the fact that most channel availabilities for low power exist outside the major markets. In addition, we shall process rural applications before urban, at least until the present backlog is significantly reduced. See, Appendix E. This will have the effect of providing service where it arguably is most needed. Beyond this, we do not believe that fair and efficient spectrum allocation can be furthered significantly by our engineering an elaborate allocation plan for stations that have no coverage requirements and whose continued existence is uncertain in light of their secondary status.

28. Noncommercial channel reservations. Similar reasoning applies to channel reservations for noncommercial low power stations, advocated by the Corporation for Public Broadcasting, the Public Broadcasting Service and the National Association of Public Television Stations, among others. Indeed, the entire notion of noncommercial operation is called into question in this service, as discussed in paragraphs 71 and 72, infra. The request for reserved channels is premised on the difficulty noncommercial applicants have in obtaining financing. The theory is based upon spectrum scarcity, that is, because it takes them longer to secure funding, there may be no more channels left by the time noncommercial applicants are ready to apply. However, there still are reserved channels available for full service stations in many markets, which, we believe, fulfills the overall plan for allocation of public stations embodied in the Sixth Report and Order, supra. Moreover, in recognition of the often disadvantaged financial status of all noncommercial stations, Congress directed the Commission to explore alternative funding sources for public stations. Public Broadcasting Amendments Act of 1981, Pub. L. No. 97-53, 95 Stat. 736, §§ 1221-1234 (August 13, 1981). In light of this initiative, and the fact that the Commission is not requiring public low power stations to operate without advertising, we believe it is unnecessary to reserve channels for noncommercial low power stations. Channel reservation comports with neither our overall approach to low power noncommercial operation nor with the secondary status of all low power stations. Indeed, we are herein adopting our proposal to eliminate the preference for educational rebroadcast on reserved channels, which gives noncommercial translators an absolute priority over commercial ones on reserved channels. See, 23 R.R. 2d 1504, 1508 (1971). 25/

29. Channel Selection. We have received comments from many parties asking that we preclude low power use of certain channels or bands, in order to secure that spectrum for a competing use. For example, the National Cable Television Association, representing cable interests, would have low power limited to UHF channels; various land mobile concerns want Channels 4, 5, 7 and 14 through 20 to be unavailable to low power stations. As we have stated, we are aware of the competing uses for the television spectrum. However, we do not intend to engage in spectrum reallocation in this proceeding. Low power is a broadcast use; as such, it is entitled to use the radio frequencies allocated for television broadcast use, subject to the constraints imposed by its secondary priority. We are confident that the desired-to-undesired frequency ratios we are adopting are adequate to protect the primary users of this spectrum. Therefore, we shall permit low power applicants to select any channel between 2 and 69, subject to our technical rules, including land mobile protection as discussed in paragraph 46, infra. 26/ We are not requiring certification that the channel selected is the one least likely to cause interference of the channels available. We do caution, however, that low power use of certain channels (principally 4, 5, 6, 7, 13, 14 through 21 and 69) may be subject to interference from authorized land mobile, point-to-point or FM stations; the rules we are adopting are not designed to protect low power stations from this. Prudence would suggest choosing a different channel where possible, but we shall not adopt a rule requiring this. Neither will we require an applicant filing a mutually exclusive application to certify that no other channel is available in the market, 27/ because we

23/ Several parties, including Citizens Communications Center and United Auto Workers, ask that the Commission give favorable consideration to the existence of a low power station that would be precluded by a full service application, where this situation arises. We are reluctant to do so. Where possible, the low power licensee on an allocated channel is free to propose to upgrade its service by filing a competing full service application; however, as it is integral to the concept of a secondary service that it yield to a mutually exclusive primary service, we shall not take low power stations into account in authorizing full service stations, and we urge low power applicants to consider this fact when they select channels.

24/ Gannon and Grange comments at 10.

25/ In the full service context, these channels continue to be reserved for the exclusive use of noncommercial stations. See, Section 73.606(a) of the Rules.

26/ To effectuate this policy, we are amending Section 74.702(c)(1) and (d) so as to eliminate priorities in UHF channel selection. Nevertheless, applications will not be accepted on channels where they cannot protect full service television stations, existing translators and land mobile allotments in the manner described in paragraphs 32 through 46.

27/ This has been advocated by Community Television Network.

recognize that other factors, such as site availability, may influence choice of channel, particularly in a service where stations have small coverage areas and where viability is uncertain. 28/

30. To provide maximum flexibility in channel selection, we are adopting our proposal to eliminate Section 74.732(d), which prohibits VHF translators from all-UHF markets and, Section 74.732(e)(1) and (2), which has the effect of prohibiting UHF stations from operating VHF translators on unassigned channels in distant markets. It is possible that the addition of a number of UHF low power stations will further the goal of UHF comparability; however, we do not see additional VHF low power stations generally as posing a significant enough competitive threat to UHF full service facilities to justify restricting VHF low power stations geographically. 29/ Finally, we are eliminating our current prohibition on use of the fifteen-mile rule, Section 73.607(b), embodied in Section 74.702(b)(2) and (g), because elimination of the preference in Section 74.703 (a) for 1,000 watt UHF translators on assigned channels renders this prohibition meaningless.

31. Maximum Power Limits. We have reviewed the comments regarding the power limits proposed for low power stations. A number of parties urge the Commission to permit higher power on low power stations, either across the board or on a waiver basis. Others advise against this, on the grounds that the likelihood of interference, both to full service stations and other low power stations, will increase with increased power. We are inclined to agree with this view. With one exception, it is our opinion that the power limits proposed in the Notice are adequate to ensure viable coverage areas for low power stations while restrictive enough to preclude undue interference under the technical standards adopted. We initially proposed to allow 100 watts VHF power in situations where both co-channel and adjacent channel mileage separations are met. Full service adjacent channel mileage separations allow substantial amounts of predicted interference, on the theory that viewers losing service will gain a replacement primary service, generally one closer to them and therefore more attuned to their local needs. We do not believe that secondary low power stations can provide an equivalent replacement service. Therefore, the power limit for low power stations will continue to be 10 watts VHF, except where a 100-watt station is proposed on an assigned channel 30/; and 1,000 watts UHF. We currently anticipate that we only would find it in the public interest to waive the power limits in extraordinary circumstances.

32. Full Service Protected Contour. The Further Notice indicated the Commission's intention to use the Grade B contour as the full service protected contour, but sought comment on the desirability and feasibility of attempting to protect service received from full service stations outside their Grade B contour. We received a good deal of thoughtful commentary on this matter. It is discussed in detail in the comment summary, Appendix D. Among parties advocating protection of all service received outside the full service Grade B contour are the Association of Maximum Service Telecasters, NAB, ABC and Storer. Cox suggests that one way of accomplishing this is to establish a full service contour seven dBu below the Grade B and require low power stations to protect that contour. This is the policy that the Commission adopted in Docket No. 20735, establishing that Channel 200 educational FM stations must protect the 40 dBu contour of Channel 6 television stations. See, Second Report and Order, Noncommercial Educational FM Broadcast Stations, 43 Fed. Reg. 39704, 39712, 39713 (1978); but see, Second Further Notice of Proposed Rule Making, to be issued at a subsequent date. Others contend that service received outside the full service Grade B contour should be protected, but on a more flexible basis, giving the Commission room to evaluate the circumstances. Communications Investment Corporation suggests that the Commission prohibit low power stations from causing "significant degradation" of service beyond the full service Grade B contour, in terms of the number of households affected. American Christian Television Stations would have low power stations protect full service stations beyond the Grade B contour where they are "significantly viewed," as defined in Section 76.54 of the Rules. AGK asks that the Commission not license a low power station on possibly interfering channels in any community outside the Grade B contour of a full service station in cases where the community is within the area of dominant influence (ADI) of the full service station. CBS advocates requiring low power applicants to select the channel least likely to cause interference, and then protecting service beyond the full service Grade B contour on a complaint basis.

33. Other parties, including Spectra, Attaway and Community Media Network, aver that it is appropriate for low power stations to protect the Grade B contours of full service stations but no further. The National Translator Association agrees with this, except that NTA believes it is arbitrary to prohibit low power signals in areas where terrain prevents actual reception of a full service station within its Grade B contour. The Corporation for Public Broadcasting contends that it is unreasonable for low power stations to be required to protect the full service Grade B, because the Commission's present rules do not require full service stations to protect each other to their Grade B contours. Adding that low power stations are more likely to provide truly local service than are full service stations at the outer reaches of their field strength contours, CPB proposes the following full service contours to be protected by low power stations:

Frequency	Protected Contour
Low band VHF	62 dBu
High band VHF	68 dBu
UHF	80 dBu

34. We have considered the various alternatives and believe that the following approach is the one that will best accommodate the competing interests and ensure maximum television service to the public. We agree that existing service from full service television stations should not be impaired. Notwithstanding inferences that may have been derived from paragraph 9 of the Further Notice, we do not intend to deviate from the basic thrust of our present translator interference rule, which states:

> "An application for a new television broadcast translator station or for changes in the facilities of an authorized station will not be granted where it is apparent that interference will be caused. . .Interference will be considered to occur whenever reception of a regularly used signal is impaired by signals radiated by the translator, regardless of the quality of such reception or the strength of the signal so used." (Emphasis supplied.)

Section 74.703(a) and (b) of the Rules. This means that any service from a full service station is to be protected from interference by a translator even beyond where the full service station provides reliable service or would be predicted to be received. However, as we stated in the Further Notice, because we are unable to process the great volume of applications manually, and in the interest of certainty among both applicants and the Commission, it is necessary that we use an objective standard for where we consider that it is "apparent that interference will be caused." We acknowledge that inherent in the definition of the Grade B contour is the fact that some locations outside the Grade B contour receive an acceptable signal, although the majority of locations do not. Conversely, inside the Grade B contour there are locations that do not receive an acceptable signal, although the majority of locations do. Because of the characteristics of TV frequency propagation and the unaccounted-for effects of terrain, this contour value and this procedure are not particularly useful for predicting service at particular locations. This also would be true of any other predicted contour we might choose to protect, a higher contour, as proposed by CPB, or a more conservative, lower contour, which Cox advocates. It is self-evident that, were we to protect full service to the 40 dBu contour, for example, we would provide somewhat greater assurance of continued reception of full service signals where they actually are received by listeners beyond the Grade B contour. However, this undoubtedly also would preclude low power from areas that are not able to receive even attenuated full service signals beyond the Grade B contour and that may not receive any off-air service at all without low power. We cannot generalize with any expectation of accuracy whether fewer or more people would receive fewer or more signals, as a result of our choosing a different protected contour for full service stations. We continue to believe that the Grade B contour offers the most realistic approximation of service received, and therefore is an appropriate standard to use in automating application processing. 31/

35. However, we shall continue our present policy to protect full service reception from impairment of the signal by translators. 32/ If we receive a well-documented complaint that an authorized low power station impairs regular reception of a full service signal outside the full service Grade B contour, this could be a ground for corrective action against the low power licensee, depending upon an evaluation of the situation. This approach does not differ significantly from what we previously have done, under our

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28/ Indeed, it is possible to envision a situation in which a channel might be particularly desirable to an applicant on the basis of its unlikelihood of being affected by future full service stations. On the other hand, even in markets with a large number of low power channels available, a few particular channels might be attractive because they offer an opportunity for future upgrading to full service operation.

29/ Our belief is based upon the secondary status and limited coverage potential of low power stations. For similar reasons, we believe that only in rare instances will a party alleging adverse impact on a UHF station be able to make an initial showing warranting consideration of the issue in a hearing prior to the award of a low power construction permit. See, WFMY Television Corp., 59 F.C.C. 2d 1010 (1976) (limiting the applicability of the policy enunciated in Triangle Publications, Inc., 29 F.C.C. 315 (1960), aff'd sub. nom. Triangle Publications v. FCC, 291 F. 2d 342 (D.C. Cir. 1961)); and see, paragraph 63, infra.

30/ This provision is in the current translator rules and has little or no negative impact on the coverage of full service stations. Continuing it is not expected to present significant problems, because there are few vacant VHF assignments and they tend to be in relatively isolated locations.

31/ It is within our discretion to adopt this contour as a processing standard, and even as an absolute protection standard. As we have said, "There is no rule of law or section of the Communications Act which affords broadcast stations protection against 'interference,' as that term is defined in the abstract without reference to the Commission's Rules and Regulations. Section 303(f) of the Act provides in pertinent part that the Commission shall 'make such regulations not inconsistent with law as it may deem necessary to prevent interference between stations.' In this Section Congress has delegated to the Commission the authority to determine to what extent interference between broadcast and other radio stations shall be permitted to exist. The delegation is broad and leaves within the Commission's discretion, subject to the criterion of the public interest, convenience and necessity, not only the determination of what degree of interference between stations shall be considered excessive but also the methods by which such excessive interference shall be avoided." Memorandum Opinion and Order, Roy Hofheinz (KSOX), Harlingen, Texas, 9 R.R. 784c (1953).

32/ This raises an issue addressed by several parties, including the Association of Maximum Service Telecasters and General Electric Broadcasting Company. They suggest that we require low power applicants specially to notify nearby full service licensees of the filing of the application. We agree with the National Translator Association that the public notice the Commission gives by statute of the acceptance of all broadcast applications is sufficient to notify all possibly affected full service stations of the pendency of a low power application. We also will not require low power facilities to conduct field tests prior to final authorization; we believe that the entailment of secondary spectrum priority, that interfering stations cease operations on the Commission's request, will fulfill the same goal, and therefore a field test requirement is unnecessary and duplicative.

existing rules. 33/ Nor does it differ significantly from the approach we would take in the case of low power/full service interference anywhere. That is, we shall not knowingly authorize a low power station that would impair the reception of a full service station. Our mode of processing gives us a reasonable degree of certainty that this normally will not occur within the full service Grade B contour, and if it does, it will be the sole responsibility of the low power operator to correct the situation. On the other hand, because we have no record of where service is received outside the full service Grade B contour, we cannot take this into account in processing. As CBS recommends, we shall deal with such interference on a complaint basis, should the need arise. 34/ We do not believe it is feasible to adopt CBS's other suggestion, that we require low power applicants to select the channel least likely to cause interference, essentially because this may be difficult to determine; furthermore, it should not be necessary, because our processing procedure will eliminate applications on channels where excessive interference is likely to be caused. However, our strict adherence to the secondary priority policy should be an incentive for low power applicants to endeavor to select channels with a minimal chance of future interference problems, the primary onus of which would fall upon themselves. 35/

36. Low Power Protected Contour. The comments focused primarily on the proposed UHF Zone 1 protected contour of 84 dBu. Almost universally, this value was viewed as too high, protecting an area too limited to allow a station to be viable. It also is argued that many translators provide acceptable service to their communities, even where they do not provide a predicted 84 dBu signal. In addition, comments claim that many low power applications specifying existing TV towers as their transmitting site would not provide an 84 dBu signal to their city of license. Values of 70 dBu and 74 dBu most often are suggested as substitutes for the 84 dBu value. We believe that use of a 74 dBu protected contour is a reasonable compromise. A protected contour value of 74 dBu was proposed in the Further Notice for those parts of the country not in TV Zone 1 or FM Zone 1A. A couple of comments supported a zone system and suggested that the proposed UHF protected contour values in all parts of the country should be reduced by similar amounts. We are not convinced that the low power protected contour for UHF stations located outside of Zones 1 and 1A should be reduced below 74 dBu. In areas of scarce spectrum the effect of reducing the protected contour would be to lower the number of possible low power stations. This would be a restraint on the marketplace that we believe is unnecessary because the protected contour is part of a minimum protection standard. An applicant, except in most of the northeast and some urban areas, often can choose to exceed the minimum standard significantly. In areas where translators have flourished, these standards should prevent a newcomer from causing severe disruption of existing service. However, we expect that the vast majority of applicants in these areas will coordinate with each other and with existing operators and will take local factors (including terrain) into account in determining how close to a minimum standard they should apply to operate. In view of this, we believe that the 74 dBu protected contour is a reasonable minimum standard. By adopting it for UHF stations in all parts of the country we are slightly simplifying the processing and conforming the UHF and VHF procedures. Based upon the comment record, we also are adopting the VHF protected contours as proposed.

37. Terrain Shielding. In our Notice, we proposed consideration of terrain shielding on a case-by-case basis. Although several comments contend that consideration of terrain is essential for a realistic authorization process, we believe that the overwhelming argument is presented by our experience with the interim applications. It is far beyond our staff capacity to evaluate individually thousands of terrain shielding claims. Also, we do not have in this proceeding sufficient information to adopt any standard method for computing a low power terrain correction factor. As indicated elsewhere in this document, we do not intend this proceeding to be the source of sweeping changes in broadcasting regulation. Therefore, the proper forum for considering a standard method of terrain correction is in a proceeding designed to deal with that subject. 36/

38. Receiving Antenna Front-to-Back Ratio. Some comments support consideration of front-to-back ratios in determining desired-to-undesired interference ratios. A larger number of comments oppose it and their arguments are persuasive. For example, the average antenna front-to-back ratios listed in the Further Notice were based on test range measurements and, particularly in rough terrain, it is unlikely that they would be equalled under normal reception conditions. Further, it was indicated that front-to-back ratios for individual antennas varied significantly from channel to channel and there is no reasonable procedure by which a consumer can identify the antenna that will perform best in their specific situation. In addition, a possible scenario is described where the undesired station is in the same direction as the desired low power station so there is no benefit from receiving antenna front-to-back ratio. Finally, at the low power protected contours we are adopting herein (see, paragraph 36, supra) acceptable reception will often be possible without an outside receiving antenna. For each of these reasons we feel that the traditional role of front-to-back ratios as a "safety factor" is appropriate in the low power service. By "safety factor" we mean it is a characteristic of receiving antennas that permits interference or ghosting to be eliminated in some instances, but we will not rely on it in determining where it is "apparent that interference will be caused."

39. Offset Operation and Frequency Tolerances. We are convinced by comments that carrier frequency offsets should be a permitted means of limiting or eliminating co-channel interference. To assure uniform, and we believe fair, treatment of applicants and licensees, we are adopting standards for low power offset operation. If an application proposes offset operation, an offset must be specified. The possible offsets are the same as those at which full service TV stations are authorized: zero, at the standard carrier frequencies for the channel; plus, with carrier frequencies 10 kHz above the zero offset carriers; and minus, with carrier frequencies 10 kHz below the zero offset carriers. The frequency tolerance of a low power station operating with a specified offset will be ±1 kHz, the same as the full service TV station frequency tolerance. The frequency tolerance for stations without a specified offset will be the same as the current translator requirements. When two stations (both low power or one low power and one full service) are to operate with different offsets (zero and plus, zero and minus, or plus and minus) the co-channel offset D/U ratio applies. When two stations are to operate with the same offset, or one or both stations do not specify an offset, the co-channel non-offset D/U ratio applies. See, paragraph 40, infra. Comments indicate that manufacturers are capable of producing equipment meeting the ±1 kHz frequency tolerance. Comments also convince us that even if only a small increase in equipment cost is involved, it is not justified for the vast majority of existing stations (and a significant number of proposed stations) that are located in rural areas where little or nothing would be gained by a tighter frequency tolerance.

40. D/U Ratios. We are adopting the desired-to-undesired ratios proposed in the Notice for UHF and in the Further Notice for VHF. No comments raised objections to the proposed values for VHF or the proposed co-channel values for UHF. In addition, no comments addressed the possibility raised in the Further Notice that low power to low power ratios could be different from low power to full service ratios. Lacking support or opposition, we are adopting the same ratios for predicting interference to either a low power or a full service station. Several parties note that the D/U ratios proposed in the Notice for adjacent channel and taboo channel relationships are mean receiver values from the 1974 Commission staff study 37/ and they argue for a more conservative approach where the D/U ratios would represent a level of performance exceeded by 90% of the tested receivers. The Electronics Industries Association, Consumer Electronics Group, representing receiver manufacturers, suggests that more conservative ratios be used for a period of five years. EIA indicates that receivers have improved noticeably since the 1974 tests and that they will continue to improve. However, EIA argues that additional time is required for the newer, better receivers to represent a larger percentage of the sets being used. Because of the industry representative's comments on receiver improvements, and the eight years that have passed since the tests were completed, we are of the opinion that use of

33/ E.g., Tri-State Television Translators, Inc., Docket No. 17654, and Wellersburg TV, Inc., Docket No. 17655, 15 RR 2d 1300 (1969). In this case, VHF translator systems in the Cumberland, Maryland, area were causing interference to the off-air reception of Washington, Baltimore and Pennsylvania stations. Several local residents outside the Grade B contour of these stations were able to receive the signals. The expense of modifying the translators to non-interfering UHF channels would have been prohibitive for the community-supported systems. In weighing the equities, it was concluded that protection of the distant signal reception of a small minority who had similar programming available from other distant full service stations would not justify the resultant service loss to the greater number of translator homes, many of which would not otherwise receive television service, because they could not afford CATV

34/ The individual circumstances of interference to a full service station beyond the Grade B contour vary so widely as to preclude any attempt to state hard and fast rules. In many circumstances, while reception may be possible, this service is relatively unimportant to viewers themselves because alternative signals are available to them--perhaps other full service television stations, translator service or cable service. While the varying circumstances require an ad hoc approach of case-by-case decision making, it may be useful to specify some of the factors that would influence our decision. We would view destruction of a viewer's only television service by a translator/low power station as extremely serious. Elimination of viewers' opportunity to view a particular television network signal also would be serious. As the service impaired becomes more redundant we would feel obligated to give more attention to the benefits obtained by the translator/low power service. We also would give less attention to interference received by viewers in special circumstances receiving a full service station that their neighbors do not receive, for example, reception caused by a viewer's location on the top of a hill or the installation of a receiving system far more sophisticated than that used by the viewer's neighbors. As our past precedents show, we also shall consider the value of the translator/low power service in terms of both the numbers served and the importance of this service to the viewers. Having discussed some of the factors we would consider in whether to terminate service by a translator/low power station we must emphasize that we expect to have to deal with very few situations of this nature. The translator service has a long history of operators successfully resolving interference problems by cooperative efforts with the viewers. We expect low power operators to continue this tradition. Translator and low power stations are secondary to full service stations, and we expect operators to engage in good faith efforts to resolve all complaints of interference to full service stations.

35/ This applies also to low power applicants that cause interference to existing translators. As we have indicated, we shall not authorize low power stations that do not meet our protection criteria to existing translators or low power stations. We have modified our low power protected contour to values that the record in this proceeding generally supports. If interference inside these protected contours results from a subsequent low power authorization and the stations involved cannot resolve the problem among themselves, the burden to correct the interference will be on the later entrant. We, of course, would expect the licensees to cooperate in resolving the problem; however, in view of the increasingly competitive nature of this service, we believe that a significant number of unresolved cases could reach the Commission. Therefore, we wish to establish now that, absent exceptional circumstances, we shall rely upon a "seniority system" for both VHF and UHF low power stations and translators. If both parties agree, we would permit two translator or low power stations to accept interference from each other, if there is no other way to authorize both and they create no additional interference to other authorized broadcast facilities. We shall not, however, permit a subsequent translator or low power station to cause interference to a currently existing translator, because this would result in destruction of existing service to the public, which is not in the public interest.

36/ For example, see, Report and Order, Docket Nos. 16004 and 18052, adopted May 29, 1975, which incorporated a terrain "roughness factor" into the FM and TV rules. However, see also, Stay, adopted April 28, 1977, 42 Fed. Reg. 25736 (May 19, 1977), where the Commission stayed indefinitely the effectiveness of the terrain roughness rules. We would expect that any general terrain correction factor that might be adopted would explicitly be extended to the low power service.

37/ W.K. Roberts and L.C. Middlekamp, A Study of the Characteristics of Typical Receivers Relative to the UHF Taboos, NITS PB-235 057 (June, 1974).

the proposed mean values is justified. Essentially, there are two reasons for this conclusion. On the basis of the above, we are convinced that most receivers currently in use actually perform better than the ratios indicate. In addition, we expect that, over the next few years, most new low power stations will exceed the protection criteria by a comfortable margin so there will be few, if any, problems of actual interference. Thus, some additional time will exist during which the average receiver is expected to improve. Finally, we do not wish to reduce the manufacturers' incentive to continue to improve those receiver characteristics that affect interference. Inferior receivers, at some point, will be exposed to undesired signals that will produce interference. We believe that this is preferable to adopting standards that protect inferior receivers, at a cost of reducing the number of low power stations that can exist.

41. Circular Polarization. In comments discussing transmitter output power, General Electric Company proposes that transmitters with twice the normally permitted power be allowed to feed a circularly polarized transmitting antenna. Circular polarization is a recognized means of improving reception within a station's service area. It commonly is achieved by transmitting both a horizontally polarized and a vertically polarized component of the signal with a fixed phase relationship between the components. The addition of a vertical component does not increase the distances at which a station provides service or causes interference. Full service stations are permitted to transmit a vertically polarized component as long as it does not exceed the horizontal component in any direction. In the past, through a waiver process, translators have been allowed to transmit a circularly polarized signal. However, they have been required to use two transmitters or a transmitter with multiple final amplifier stages, and two transmission lines connecting the transmitters to the antennas. We believe that it is both reasonable and appropriate for us to amend our rules herein to permit low power circular polarization and to permit a higher transmitter power output when a circularly polarized antenna is used.

42. Canadian and Mexican Notification. A translator notification procedure has evolved for stations in the Canadian border area. Canada is notified of 1 watt VHF translators within 10 miles of the border, and 10 watt VHF translators and 100 watt UHF translators within 20 miles of the border. Because 100 watt VHF translators and 1,000 watt UHF translators have required a channel in the Table of Assignments, they have been coordinated if they were in the area covered by the full service TV Agreement, within 250 miles of the U.S.-Canada border. There is no established protocol for notifying Mexico of translators in the border area. The full service TV Agreements with Mexico require coordination of VHF stations within 250 miles of the border and UHF stations within 199 miles. We currently are formulating a procedure for both Mexican and Canadian notifications. Until new agreements are reached, low power authorizations in the border areas (except those that would not require notification under the above standards) will be conditioned on Canadian or Mexican concurrence.

43. Cable Protection. The National Cable Television Association, with Spectradyne, has voiced concern that low power stations could cause interference to cable systems at the headend antenna where TV rebroadcast signals are received, cable distribution systems and at subscribers' receivers. To protect cable, NCTA would have the Commission license low power stations only on UHF channels and put the burden of frequency coordination and correction of interference on the low power operator. The Association of Maximum Service Telecasters, the Corporation for Public Broadcasting, the National Translator Association and others oppose NCTA, arguing that the potential for interference to cable is not as serious as NCTA fears and that, in any case, cable's unregulated use of radio frequencies is predicated on its nonpreclusion of broadcast uses of the band. NTIA supports a scheme substantially similar to that proposed in the Notice, whereby the Commission would consider well-documented objections to low power applications based on potential headend interference, but that other low power/cable interference is to be solved between the parties, with primary responsibility for correction of cable-related problems on the cable operator. In the interest of spectral efficiency, we have decided not to limit low power to the UHF spectrum. We are aware that, on occasion, interference problems have arisen between cable and full service stations on VHF channels. However, we believe that it would be spectrally inefficient to preclude low power stations from the VHF band altogether, when there are many locations where this will not occur. We do not feel it necessary to restrict the low power operator's range of choice between VHF and UHF frequencies, which may depend on factors such as cost differential, channel availability and coverage potential.

44. We believe that, with one minor modification, the cable/low power interference rules originally proposed generally will be adequate to control potential interference problems with minimal disruption to existing service. The rules are as follows:

1. The low power station operator is strictly responsible for taking immediate corrective action when an interfering condition to any other service results from operation in violation of the Commission's technical standards, or from improper maintenance. 38/

2. The cable operator generally is responsible for correcting interference in the cable distribution system and at subscribers' sets. 39/

3. The Commission will not knowingly authorize a low power station that is likely to cause serious interference to reception at an existing cable television headend. If this does occur, the parties will be encouraged to settle the matter between themselves, in light of the Commission's first-come, first-served policy, that will favor the pre-existing service.

Because the Commission has no computer data base of cable headend locations and stations received, or of channels used elsewhere in the cable distribution system, we have no means of considering cable systems in our automated processing procedures. Where we receive documented submissions raising a

38/ This provision applies not only to cable, but to all services.

39/ As discussed in paragraph 45, infra, we are persuaded that the special case of co-channel interference to the output of a set-top converter requires a different approach.

substantial and material question that a proposed low power station will cause serious interference to a cable system, we shall designate the application for hearing, pursuant to Section 309 of the Communications Act. 40/ However, as we have said, where an operational low power station causes interference to a pre-existing cable headend, we expect the parties to settle the dispute among themselves and come to the Commission only as a last resort. We would afford the earlier entrant, whether it be the cable system or the low power station, favorable consideration over the later one, and we would expect this to be a factor in their negotiations.

45. With respect to other interference problems, e.g., "local pick-up" interference at the television receiver, we do not find a sound basis for affording formal protection to cable systems in general. 41/ Cable's use of radio frequencies is based on its nonpreclusion of broadcast uses; therefore there is no basis for affording cable such formal protection. 42/ On the other hand, we find merit in NCTA's contention that some interference problems may occur frequently and be expensive for cable operators to correct. Various means to alleviate interference from broadcast stations may be available to cable operators. In some instances, the cost of correction would not be prohibitive, and would more easily be borne by the cable operator. See, Oregon Broadcasting Company, 20 F.C.C. 2d 246 (1969). We also note that our decision to restrict VHF translators and low power stations to 10 watts except where a station is proposed on an assigned channel further will reduce the magnitude of the problem. In the Notice we proposed to allow 100 watt operation in any situation where the co-channel and adjacent channel full service mileage separations were met. As a result of our decision not to extend 100 watt operation beyond assigned channels, cable operators will no longer have to accept the consequences of 100 watt VHF translators or low power stations except in locations where they already were aware of the possibility of a VHF full service station. The comments have persuaded us that one additional circumstance, however, does require special consideration. Where a new translator or low power station will cause interference to the output channel of an existing cable converter, we believe that the cable system may deserve some protection. In view of the minimal preclusive impact this will have (foreclosing at most one VHF channel from local use by translators or low power stations), we find this a reasonable accommodation to make to a cable operator who already has gone to considerable effort to minimize the system's use of broadcast spectrum by using a converter. We believe that this possibility warrants extension of the "first in time, first in right" policy we are adopting with respect to headend interference. Not only will this achieve equity between the parties, more importantly, we believe that in this circumstance it best serves the public interest to protect an expectation of continued service that may have arisen over time, instead of permitting its degradation by a later entrant. Given the small number of cases in which this should occur, we believe that the best way to handle the situation is via documented objections filed by the cable operator operators to applications of translators or low power stations that will be both co-channel to the output channel of existing converters and close enough to generate local pick-up problems. 43/ We continue to encourage private resolution of all cable/low power interference problems, informed by our policy to favor the earlier spectrum user in the headend or converter situations. Therefore, we are amending our rules explicitly to state that, in the event of cable/low power interference, the first user of the frequency, whether cable or low power, will have priority when interference precludes joint use in these two circumstances, and the later entrant will be responsible to correct the interfering condition. The cable operator will be responsible to correct all other interfering situations. See, Appendix A, §74.703(d).

46. Land mobile service. The 1979 World Administrative Radio Conference recognized the potential for shared Land Mobile/Broadcast use of the frequencies between 512 and 806 MHz (TV channels 21 through 69). Assuming the WARC agreement is ratified by the U.S. Senate, the Commission will be permitted, if it wishes, to authorize both land mobile and broadcast stations in this spectrum. In this regard, we intend to implement procedures for the processing of LPTV applications that take into account the potential for such sharing in and near major urban areas where the greatest long-term needs for land mobile channels exist. Specifically, we shall examine all low power TV applications within at least a 100-mile radius of the ten largest U.S. metropolitan areas to determine what accommodation, if any, is possible if we decide to provide some land mobile spectrum, while, at the same time, not unduly diminishing the spectrum available for low power television. (We are most concerned with: Boston, Chicago, Dallas, Detroit, Houston, Los Angeles, New York, Philadelphia, San Francisco, and Washington, D.C.) In effect, we shall attempt, through a staff study and our application processing

40/ See, H & B Communications Corporation v. FCC, 420 F. 2d 638 (D.C. Cir. 1969). However, as noted above, pre-grant hearings on cable/low power interference issues will be authorized only where CATV systems are able to show the potential for interference with sufficient certainty and specificity to warrant designation of the issue for hearing. See, Washoe County School District, File No. BPTTV-6096, FCC 81-533, released December 3, 1981; Capital Communications, Inc., File Nos. BPTTV-800311IC and BPTTV-800312IB, FCC 81-534, released December 4, 1981.

41/ Microband makes an argument for protection of Multipoint Distribution Service down-converters that operate on Channels 12 and 13. We believe the same rationale applies to MDS use of radio frequencies as to cable and, accordingly, we are not extending such protection, but expect the parties to any such disputes to settle them privately.

42/ See, e.g., Memorandum Opinion and Order, Heart of Texas TV, 25 F.C.C. 2d 754 (1970); reconsid. denied, 27 F.C.C. 2d 205 (1971). While this case holds that cable systems must alter facilities to permit VHF translators, the text evinces the Commission's flexible approach, mandated in H & B Communications Corporation, supra, n. 39, of attempting to accommodate as many competing interests as possible in such situations. Accord, San Juan Nonprofit TV Association, 22 F.C.C. 2d 371 (1970).

43/ Unlike consumer electronics products such as TV games and VCRs, cable converters normally do not come with a switch to change the output between two adjacent channels. If they did, then the cable problem could be solved simply be switching to the channel unused by the translator or low power station.

procedures, to determine what impact additional land mobile sharing with low power TV has in these cities. Also with respect to land mobile operations, we note that a number of parties have decried the protection standards we proposed for land mobile systems now sharing VHF frequencies with broadcast users. The UHF taboos, however, still are a matter of study. Pending final resolution of this issue, we are inclined to adopt the standards proposed in the Notice for the protection of land mobile stations, with a few modifications urged in comments. We do not believe that these standards normally will result in interference, and we conclude that they are practicable, at least on a short-term basis. However, to the extent that interference does result, low power stations are being authorized on a secondary basis to all stations in existing primary allocations and must both correct whatever interference they cause or cease operation and accept whatever interference they receive from stations in the primary allocations. Also, to protect the Offshore Radio Telecommunications Service operations on Channel 17, we are adopting somewhat more restrictive standards for low power stations in the Gulf of Mexico. We believe that this is possible without significantly reducing the area within which Channels 16, 17 and 18 can be used, because existing full service stations on related channels and the Channel 17 Houston land mobile allocation leave little of the Gulf area with these channels available. Further, the area where Channels 16, 17 and 18 otherwise might have been used are for the most part sparsely populated with a large number of other UHF channels available for low power use. Therefore, we are adopting rules prohibiting Channel 16, 17 and 18 low power stations in the following areas: (1) Channel 17 will not be available in the area south of 31° 30' North Latitude, west of 86° 30' West Longitude and east of 95° 30' West Longitude; (2) Channels 16 and 18 will not be available in the area south of 30° 00' North Latitude, west of 87° 00' West Longitude and east of 95° 00' West Longitude. A computer review of translator stations and applications and pending low power and translator applications disclosed only two on these channels within these areas, both for Channel 16 at Galveston, Texas. Because Galveston is 40 miles from Houston, within the Channel 17 land mobile protected contour, these applications cannot be granted, regardless of the ORTS protection standards. The Commission also is aware of two petitions for rulemaking, one filed by the Offshore Telephone Company (RM-3924) and the other by the Sheriff's Department of Los Angeles County (RM-3975), both requesting nonbroadcast use of portions of the UHF-TV broadcasting spectrum. Our action today could have a negative impact upon the possibility of a favorable outcome on either of these petitions. Based upon our initial analysis, it appears that some degree of sharing between the Offshore Telephone Company use of channels 15 and 16 and low power TV may be possible. On the other hand, the mutual accommodation of the Sheriff's petition and low power TV seems to be considerably more difficult, if not impossible. Again this expectation is based on very preliminary analysis, and some possibilities for land mobile sharing still may exist even with significant development of low power TV. However, due to the strong public support and demand for low power TV, we do not consider it to be in the public interest to delay this proceeding to review further these two petitions, particularly because the Commission has not yet even determined whether petitioners have made a threshhold showing warranting rulemaking. After further analysis has been completed, these petitions will be accommodated through separate proceedings and to the extent the Commission determines appropriate.

47. Auxiliary Services. The Notice proposed that low power stations have access to auxiliary broadcast frequencies, where available, for studio-to-transmitter links and remote broadcast pickups. Subparts D, E, F and H of Part 74 of the Rules cover these uses. Low power licensees are eligible for remote pickup broadcast station licenses, under Subpart D. Because in BC Docket No. 81-793 we are proposing to delete Section 74.603(b), to eliminate use of aural microwave spectrum in connection with television transmissions, we shall not license this spectrum to low power licensees, until and unless resolution of Docket 81-793 permits. The present rules governing television translator microwave relays in Subpart F permit their use in connection with translators only to obtain permissible TV programming; the frequencies may not be used in connection with program origination. Television translator relays are accorded the lowest priority in use of the microwave frequencies under our present rules, see, Section 74.602(h). As part of an originating broadcast service, low power stations should be directly eligible for television microwave assignments for STLs, intercity relay and/or TV pickups, and Section 74.632(a) will be amended accordingly. The Commission recently initiated a proceeding to establish new licensing policies for television broadcast auxiliary stations, BC Docket No. 81-794. 44/ The Notice of Proposed Rule Making in that docket encourages private frequency coordination in the assignment of television auxiliary microwave frequencies and proposes the establishment of priorities for such assignments. The Notice seeks comment on the proper place for low power stations in the hierarchy. Because there was little commentary on this issue in the instant proceeding, and because BC Docket No. 81-794 is intended to encompass the entire panoply of users of this spectrum, we shall defer any possible modification of the present priority afforded to television translator relays, and leave resolution of the priority of low power stations to BC Docket 81-794. Finally, we are amending Section 74.832, Subpart H of the Rules to make low power television licensees eligible for low power auxiliary stations 45/, as well as Section 74.432(a), audio remote pickup stations.

IV. Technical and Engineering Requirements

48. The Notice addressed a number of technical issues not strictly related to spectrum priority. See, Notice, paragraphs 63 through 67, 45 Fed. Reg. at 69188, 69189. We did not receive a great deal of commentary on this subject, possibly because we are maintaining rather than changing most of our current regulations in this area. Nevertheless, it remains our belief that the technical aspects of low power operation are critical to its success as a new broadcast service and to its coexistence with existing services. We emphasize that we shall require strict adherence to the technical standards, both interference-related and others, adopted herein for low power stations.

44/ FCC 81-537, released November 25, 1981.

45/ In this connection, we shall state here that we do not see the necessity of changing the name of the low power television service, as some parties have suggested, either because the term "low power" itself has a negative connotation or to avoid confusion with low power auxiliary stations. We believe a greater amount of confusion is likely to result from changing the name of the low power television service at this point.

49. Transmitter and Other Equipment Standards. We are retaining Section 74.750, which requires type acceptance of low power transmitters. Low power STV operations must use a Commission-approved encoding system. Section 74.736, which governs out-of-band emissions, will remain in force. Section 74.761, requiring frequency tolerance maintenance, will continue to be enforced. Where offset operation is proposed, transmitting equipment with the stability needed to meet a stricter frequency tolerance will be required. See, paragraph 39, supra. While we are amending Section 74.734 to require an operator in attendance under some conditions (see, paragraph 95, infra), we shall continue to enforce Section 74.734(a)(6), which requires observation for ten continuous minutes per day of the off-air signal of translators employing modulators. We shall require the transmitting equipment used by low power stations to comply with those existing provisions of Section 74.750 that relate to the prevention of interference. However, we are not adopting technical operating standards for the transmitted sync pulse and blanking wave forms, color burst or audio distortion. Our concern in regard to low power technical standards is primarily avoidance of objectionable interference. We would hope that marketplace considerations will provide additional incentive for low power licensees to maintain high quality signals for viewers.

V. Applications

50. Form 346, as revised for use by both translator and low power applicants, continues to seek information regarding the citizenship, character and financial qualifications of the applicant, as well as technical aspects of the proposal, as enumerated in Section 308(b) of the Communications Act and our rules and regulations. 46/ Without opining on their continued vitality, we shall continue to enforce the minimum qualifications to hold a broadcast license in the low power service, leaving the possible modification or curtailment of such qualifications to proceedings designed for that purpose, e.g., Notice of Inquiry, Gen Docket No. 81-500, 47 Fed. Reg. 40899 (August 13, 1981). 47/ It goes without saying that we believe that the low power service is an ideal candidate for any modifications of qualifications that are accomplished in other proceedings. However, because the Commission intends to examine these issues in separate proceedings in the future, we shall not make changes at this time.

51. We also envision several simplifications in application processing procedures for low power applications. It is consistent with the spirit of Gen. Docket No. 79-137, Revised Procedures for the Processing of Contested Broadcast Applications, 72 F.C.C. 2d 202 (1979), and with the secondary nature of the low power service, that low power processing procedures be streamlined to the extent practicably possible. We emphasize, however, that we intend to maintain strict standards for acceptance of applications. A low power application must be complete and sufficient to be accepted for filing. Applications with blatant defects will be returned. This policy represents a departure from the standard set out in Section 73.3564(a) of our Rules, under which "substantially complete" applications are acceptable for filing. It resembles, rather, the acceptance criteria of Part 22 of our Rules, which requires complete applications, and return of blatantly defective applications. See, e.g., Sections 22.31(b)(2) and 22.32(b)(1) of the Rules. Under our present broadcast rules, an application that is not grantable because it is incomplete still may be acceptable for filing, because it is not "patently defective" and it is "substantially complete." See, James River Broadcasting Corp. v. FCC, 399 F. 2d 585 (1968). On the other hand, clearly deficient applications may be returned. Henry M. Lesher, 41 R.R. 2d 1503 (1977). The Commission and the courts, in applying this standard, have emphasized that administrative fairness requires full notice to parties whose rights may be affected by our rules regarding what is required of them to comply. Where such notice is afforded, the Commission may require strict compliance. Ranger v. FCC, 297 F. 2d 240 (1961). It is open to us to modify our acceptability standards as they apply to low power and translator applications, so long as we do so explicitly and with good reason:

> There is also an interest in procedures and administrative techniques that enable the Commission to handle its work load efficiently, and with optimum use of limited administrative resources. Perhaps the Commission can accommodate the various interests by adopting administrative expedients that, for example, explicitly require all applications to be letter-perfect when filed.

Radio Athens, Inc. (WATH) v. FCC, 401 F. 2d 398 (D.C. Cir. 1968). We now do so, for the following reason. The Commission's limited resources and the large number of low power applications to be processed simply will not permit the staff to coach applicants in correcting defects or omissions in applications that have been filed, as sometimes has been the case in the past. Defective low power applications will be returned summarily, and if they are resubmitted with perfecting amendments, they will be placed at the end of the processing line, unless passage of a cut-off date precludes consideration altogether, in which case the resubmission will be returned. Because explicit notice of change in policy was not afforded in the Notice of Proposed Rule Making in this proceeding, pending applicants will have the opportunity to perfect their applications without loss of rights that arguably may have accrued during the ninety day amendment period discussed in paragraph 56, infra.

52. Once an application has been accepted for filing, it will be placed on a cut-off list, which will set the deadline for the filing of competing applications and petitions to deny. Applications received by the cut-off date that are accepted for filing will be examined for exclusivity,

46/ The information that will be required on revised Form 346 is attached as Appendix B. OMB approval must be obtained. Forms 347 and 348, the license and renewal forms, also will be revised to reflect the rule changes contained herein. Until the computer to be used in processing is operational, we shall continue processing rural, freeze-exempt applications manually. In order to facilitate these efforts, we have appended a request for a topographical exhibit to the application form. As indicated, this additional information may be supplied at the option of the applicant. However, it could considerably expedite the processing of the application.

47/ We are, however, simplifying the showing required to demonstrate financial ability to a certification requirement, in conformity with our practice with other broadcast applications.

and those determined to be mutually exclusive with applications that appeared on the "A" cut-off list will be placed on a "B" cut-off list, that sets a deadline for petitions to deny; no competing applications may be filed to "B" list applications.

VI. Comparative Procedures and Criteria

53. The Notice of Proposed Rule Making proposes the following system of comparative evaluation, to enable the Commission expeditiously to decide among competing applicants:

(1) Notification of mutual exclusivity to applicants;
(2) Thirty days for amendments to remove mutual exclusivity;
(3) Pre-designation conference among applicants and staff;
(4) Designation of mutual exclusivity and paper hearing concerning:
  (a) qualification issues;
  (b) technical aspects of the applications; and
  (c) claims to preference points.
(5) If no single applicant emerges victorious from the paper hearing, random selection among qualified applicants.

The Notice proposes the following comparative preference points:

(1) First applicant to file a complete and sufficient application; 48/
(2) Over fifty percent minority ownership; and
(3) Noncommercial applicant proposing noncommercial service to the general public.

The preferences would be cumulative and be worth one point each, so that a first-filed minority applicant would have two points and would win the frequency over a competing noncommercial applicant, for example. This comparative system contains three departures from our customary method of comparing mutually exclusive applications: a paper hearing would be held on designated issues instead of a hearing with oral testimony; there are only three comparative criteria, and they have yes-or-no answers; and a lottery would be used to decide among applications that are equal in comparative points. These modifications were intended to "avoid head-to-head competition among applicants, with its profound drain upon the resources of the parties and the administrative agency." Notice, 45 Fed. Reg. at 69189.

54. These comparative criteria and procedures explicitly were proposed as a "first draft" in the Notice, and we promised to consider comments advancing other approaches. The comments addressing the comparative process are voluminous, with many opposing the notion of curtailed comparative procedures and others proposing much more elaborate preference systems, while applauding the basic concept. Among the many factors favoring abbreviated comparative procedures for low power applications are that low power is a secondary service; that prolonged and elaborate comparative proceedings may impose serious financial barriers for new entrants into the industry; that for a new service it is difficult to predict which comparative factors ultimately will be the most significant or desirable; that, without a prohibition on trafficking, stations may change hands soon after construction, mooting an elaborate preference system; and that the Commission simply does not have the resources promptly to handle the volume of comparative hearings required to resolve the plethora of mutually exclusive low power applications. We find these arguments convincing, and we think the solution is to have largely paper hearings among competing applications, as detailed below. We believe the modifications in our original proposals discussed in paragraphs 65 through 68, infra, take into account the somewhat contradictory goals of prompt authorizations and a time-consuming, comprehensive examination of all relevant information. In discussing the steps in the process, we shall address each of the proposals from the Notice in the order listed in paragraph 53 above.

55. Notice of Exclusivity. Applicants will be notified that their applications are mutually exclusive with a (or several) application(s) by their inclusion on a "B" cut-off list. Mutually exclusive applications will be designated for hearing. However, mutually exclusive applicants may, and are encouraged to, cooperate in private settlement endeavors to remove mutual exclusivity. Applicants should explore various options, such as buying out a competing applicant or agreeing to a time sharing arrangement, keeping in mind that settlement agreements must be submitted for Commission approval, pursuant to Section 311 of the Communications Act, and that we are committed to expeditious processing of all settlement agreements that eliminate the necessity for comparative hearings. It will facilitate such efforts that the Commission does not consider changes in ownership or control of low power television applications to constitute a major change entailing competing applications, although these are subject to petitions to deny. See, paragraph 77, infra. Accordingly, applicants can alter their ownership structure via amendment without losing cut-off protection. We point out, however, that our policy prohibiting amendments affecting ownership that would result in comparative advantage after the "B" cut-of date has passed will apply in the low power context.

56. Ninety Day Amendment Period. All present applicants will be afforded a specific ninety day period during which they can amend to bring their applications into conformance with the final low power rules. On account of the large number of applications, we may, as resources permit, stagger our requests for amendments. This will be announced via public notice following the effective date of this Report and Order. 49/ We have devised a phased approach to the processing of pending applications. See, Appendix E.

48/ This preference would only be operative for applications filed after the close of the rule making.

49/ As part of this process, we wish applicants to ensure that they have provided appropriate antennas, with model numbers, a correct polar diagram, including the total polar plot, accurate overall height above ground of the antenna and altitude of ground above mean sea level figures and accurate coordinates for the site proposed, which must reasonably be believed to be available for their use. Inaccurate information on applications delays the entire processing endeavor, and, under our newly-adopted strict acceptance standards, will result in nonacceptance of future low power applications.

57. General Processing Procedures. Applications that are mutually exclusive with applications already on published "A" lists will be placed on "B" lists. These "B" lists will be published, and will afford applicants notice of their mutual exclusivity. After the deadline specified in the "B" list for filing amendments and petitions to deny has passed, the mutually exclusive applications will be processed. If the applicants are able to resolve their mutual exclusivity in a manner acceptable to the Commission, the resulting application can be processed to grant. However, if the parties are unable to resolve their exclusivity, the applications will be designated for hearing. After these mutually exclusive applications have been designated for hearing, the Commission will begin processing the remaining applications.

58. Predesignation Conference. We are not making the initially-proposed predesignation conference with staff a formal part of the comparative process, because we believe settlements and accommodations can be accomplished expeditiously without Commission intervention, and our limited staff resources better can be utilized elsewhere. In light of the delays that, to some extent, will be unavoidable, should competing applicants be unable to resolve their differences via private negotiation, we strongly encourage all groups of mutually exclusive applicants to cooperate in private settlement endeavors and particularly to explore the possibility of time-sharing arrangements. 50/ As we have said, the Commission will attempt to consider settlement agreements submitted pursuant to Section 311(c) and (d) of the Communications Act and Sections 73.3525 and 73.3568 of the Rules in as expeditious a manner as possible. Indeed, such settlements will be given our highest priority and will be processed and granted before other pending applications, in the order in which the settlement agreements are received.

59. Designation. The designation orders will include issues raised in petitions to deny that raise substantial and material questions of fact that are in dispute and require a hearing for resolution. See, Section 309(e) of the Communications Act. These issues may include qualifications to hold a broadcast license under Section 308(b) of the Communications Act, as well as relevant comparative issues.

60. Issues not appropriate for designation. Because of the many differences between the low power television service and the existing full service television broadcast service, especially the secondary status of low power stations and their small service areas, we intend to limit the number of issues considered in low power comparative hearings to only those truly relevant to the situation at hand. One of the perennial technical issues considered in traditional hearings among mutually exclusive television applicants has arisen under the aegis of Section 307(b). 51/ When two competing applicants propose service areas that are to any degree different, the Commission traditionally has considered evidence on the amount of area and the population served by the competing applicants. This inquiry, undertaken in the interest of ensuring that the applicant proposing the most fair, efficient and equitable distribution of new service will predominate in the selection contest, 52/ has been one of the most time consuming and litigated issues addressed in the hearing context. 53/

61. We shall not consider arguments directed to Section 307(b) of the Communications Act 54/ in designating issues for low power applications, for several reasons. In the first place, the tiered processing program we are implementing (see, Appendix E) embodies a general Section 307(b) judgment that, of the 6,000 pending applications, those which fall within the most rural markets should be given priority over those proposing to serve more urban, and well-served, areas. We recognize that the rural authorizations may have a preclusive effect in more urban areas, and we believe that this is justified by the fact that the areas to which we are giving priority are more in need of service and that it represents fair and equitable spectrum allocation to favor them. Second, today's broadcast services may be considered quite mature, in a Section 307(b) sense. The Tables of Assignments for FM and television stations, Sections 73.202(b) and 73.606(b), and the allocation scheme for wide-area AM stations memorialized in Section 73.22, are intended to fulfill the Commission's Section 307(b) mandate. See, Logansport Broadcasting Corporation v. FCC, 210 F. 2d 24 (D.C. Cir. 1954); also see, Loyola University, et al. v. FCC, Nos. 80-1824 and 80-2018, slip op. (D.C. Cir., January 26, 1982). Finally, the existing array of television channel utilization will force low power into less well-served areas. The Television Table of Assignments distributed the available television allotments between large cities and less populated areas in a manner that balanced the natural gravitation of stations to large urban areas with high population densities with the need to reserve some spectrum capacity to serve the less profitable, low population density areas of the country. One result of this balanced distribution pattern is that in approximately the 50 largest markets no additional full-spaced television stations can be accommodated. Although the lower maximum transmitter power of low power stations will permit somewhat shorter coordination distances, this existing concentration of full service stations in and around the top 50 markets on every available channel will result in very few opportunities to add low power stations to locations that can serve the largest markets. Conversely, most of the locations where new low power stations can be spectrally accommodated will be outside of the top 50 markets, where the television band is not saturated. This is fortuitous in two respects. First, the lower construction and operation costs that will characterize low power stations promise to make their operation economically viable in areas with population insufficient to support a full service station. Second, and relevant to this discussion, this existing station

50/ See, Notice of Inquiry on Part-time Programming, 55 R.R. 2d 81 (1978); but see, Cosmopolitan Broadcasting Corp. v. FCC, __ F. 2d ___ (D.C. Cir. 1982).

51/ 47 U.S.C. §307(b) provides that "[i]n considering applications for licenses, and modifications. . .thereof. . .the Commission shall make such distribution of licenses. . .among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same."

52/ We note that at its meeting on September 17, 1981, the Commission directed its staff to include in its upcoming legislative amendments a proposal to delete Section 307(b) from the Communications Act "since fair and equitable distribution of radio and television service generally had been established nationwide." See, F.C.C. News, Report No. 5068, Mimeo 003451 (September 17, 1981).

53/ This may well be because a "Section 307(b)" preference is considered dispositive over applicants who do not receive this preference. See, e.g., FCC v. Allentown Broadcasting Corp., 349 U.S. 348, 12 R.R. 2019, 2021 (1955).

distribution pattern, coupled with our requirement that low power stations protect the Grade B contours of all full service stations will result in the vast majority of low power authorizations being granted outside the top 50 markets. Thus, the assignment policies we are adopting for the low power service automatically will accomplish the concern we formerly addressed in our Section 307(b) hearing contests.

62. Second, the basic regulatory structure of this new service makes the application of our full service station Section 307(b) practices inappropriate. As discussed above, we are not requiring low power licensees to serve a particular community, to maintain any specified programming format, or to retain ownership of the initial license for a fixed length of time. Furthermore, because of their secondary status, what service they do provide may be preempted by the addition of a full service station too close to permit simultaneous operation. Given these characteristics, the added delay in authorizing new low power stations, and the great cost of an expanded or otherwise unnecessary hearing to the applicant, the Commission, and ultimately the public, cannot be justified.

63. The courts have held that neither Section 307(b) nor our particular past applications express rigid and inflexible standards. The Commission has a great deal of discretion in solving problems attendant to its responsibilities for providing a "fair, efficient, and equitable distribution of radio services." Television Corporation of Michigan v. FCC, 294 F. 2d 730 (D.C. Cir. 1961); 21 R.R. 2107; Logansport Broadcasting Corp. v. United States, 210 F. 2d 24 (D.C. Cir. 1954), 10 R.R. 2008; Federal Radio Commission v. Nelson Brothers Broadcasting Bond and Mortgage Co., 289 U.S. 266 (1933); WBEN, Inc. v. United States, 396 F. 2d 60 (2nd Cir., 1968), cert. denied, 393 U.S. 914 (1968). For instance, the Court affirmed the Commission in its determination that every initial licensing proceeding in which mutually exclusive applicants propose different communities need not present a Section 307(b) issue. Huntington Broadcasting Co. v. FCC, 192 F. 2d 33 (D.C. Cir. 1951), 7 R.R. 2030. In the new service before us today, we believe the inevitable allocation of the majority of low power stations to locations away from the top 50 markets, coupled with the secondary nature of the service these licensees will provide, creates a situation where none of the mutual exclusivities created by competing low power and translator applicants present a meaningful Section 307(b) issue. Therefore, consideration of Section 307(b) issues are not, in this instance, in the public interest. We do not intend this to constitute a relaxation of our concern for the Section 307(b) mandate. We remain committed to Section 307(b) determinations in the primary broadcast services. However, we believe that implementation of the low power proposal takes cognizance of the existing distribution of services. We further believe that the allocation procedures in this Report and Order will reduce the costs to all parties--society generally, the applicants, and the Commission--while allowing for greater flexibility for the market to fine-tune allocations. In accordance with this policy, we also shall not consider Berwick or suburban community issues. See, Berwick Broadcasting Corp. v. FCC, 20 FCC 2d 393 (1969).

64. UHF Impact. We find it difficult to envision a situation in which a VHF low power station will cause a substantial economic threat to a full service UHF station. Because their spectrum priority is secondary, low power stations always remain vulnerable to new full service entrants or existing full service modifications on interfering channels. In addition, our limit on maximum output power and our contour overlap prohibitions both place limitations on the coverage potential of low power stations. The coverage area of a full service UHF station inevitably will be many times greater than that of a low power VHF station. Under these circumstances, we see little point in extending our UHF impact policy to the low power service. This is particularly true at a time when, as a result of Congressional and Commission efforts, as well as the workings of the marketplace, the increasing vitality of the UHF service generally is making our policies designed to protect UHF stations from competition less appropriate. See, e.g., All-Channel Receiver Law, 47 U.S.C. §303(s); Report and Order, 21 F.C.C. 2d 245 (1970); Report and Order, 62 F.C.C. 2d 164 (1976); Final Report, UHF Comparability Task Force, Gen. Docket No. 78-391, P. Gieseler, et al., FCC, Office of Plans and Policy (September, 1980), available from NTIS, Springfield, Virginia. Neither do we anticipate designating low power/CATV interference issues in many cases. See, notes 39 and 41, supra. We also foresee few instances in which an allegation of harmful economic impact, made pursuant to Carroll Broadcasting Co. v. FCC, 258 F. 2d 440 (D.C. Cir. 1956), will meet the test of Section 309(e) and require designation for hearing, particularly in light of the secondary status and limited coverage potential of low power stations. Low power stations will have smaller coverage areas than full service stations. Therefore, their ability to garner advertising revenues on the basis of audience size will be less great. Similarly, their ability to divert revenues from existing full service stations will be limited. Finally, their secondary status, which makes their continued existence uncertain, could hinder their ability to sustain audience and advertisers. In light of these facts, we do not see a likelihood of many full service stations being able to document a prima facie case that a low power station will so impair their ability to maintain its revenues that a net loss of public service programming will result. Today, where several full service television stations exist in many major markets, it is even less likely that a low power entrant will have an economic effect so severe as to result in loss of public service programming on all the full service stations. Our holding in Monroe County Board of Commissioners, 42 F.C.C 2d 683 (1979), that the "Carroll" doctrine should not apply to cable systems, is consistent with this belief and with the record adduced in the

54/ In the Table services, TV and FM, the fairness of the allocation is dealt with primarily in conjunction with the rule making that amends the Table to reflect the frequency assignment. Applications filed under Sections 73.203(b) and 73.607(b), which permit construction of a radio or television station within ten or fifteen miles of the community of assignment, represent the only instances in which Section 307(b) issues generally arise in the application process. In AM radio, where there is no table of assignments, Section 307(b) issues more frequently arise in connection with competing applications. Clear resolution of the Section 307(b) issue in favor of one qualified applicant over another is dispositive, and no further comparison of applications is made. Low power resembles AM, in that there is no table of assignments, although AM is a primary service, unlike low power.

instant proceeding. Also see, Wrangell Radio Group, et al., 75 F.C.C. 2d 404, 407 (1980). 55/

65. Hearing. It is our intention to minimize the expense of establishing low power stations. This goal requires that we not subject applicants to long and costly comparative hearings. Moreover, if we flood the hearing process with numerous low power proceedings, we shall further delay the resolution of all other hearing proceedings including those involving construction permits for full service facilities. Therefore, it remains our intention to utilize a random selection process when and if that becomes practicable. Applicants for licenses in this service, therefore, are advised that their applications, if mutually exclusive with other applications, may be subject to revised processing procedures, standards and qualifications in connection with implementation of a system of random selection. At this point, however, we must utilize most of our existing hearing procedures. Nevertheless, we shall make certain modifications in those procedures in order to reduce or eliminate the number of days low power applicants will have to spend in the hearing room.

66. The Comparative hearing process can be expensive and time-consuming. 56/ For these reasons, we have studied steps that could be taken to minimize the expense and long delays normally inherent in comparative proceedings involving broadcast applicants. Our goal has been twofold: first, to assure that applicants are given an opportunity adequately and fairly to present their cases and, thus, to demonstrate why they are the "best" applicant within the context of the criteria established by the Commission; and second, to conclude the administrative process and provide service to the public as expeditiously as possible. We believe that we have identified several procedural actions that can facilitate this goal.

67. Based upon our review of our application processing and hearing procedures, we believe that it may be possible to shorten both the evidentiary and appellate aspects of the process through the use of a modified paper proceeding directly administered by the Commission. 57/ Under the modified procedure set forth herein, the Commission en banc will receive the evidence and issue the final decision as to which applicant should be awarded the license. 58/ Also, unlike in traditional hearings, the Broadcast Bureau will not appear as a party, unless otherwise ordered by the Commission. Instead, the Bureau will serve as advisors and staff support to the Commission with responsibility for reviewing and analyzing the pleadings and preparation of a draft of the final decision.

68. The Commission's low power application processing procedures call for the issuance of two cutoff lists: the "A" list invites competing 59/ applications and the "B" list invites only petitions to deny. We shall begin the low power television comparative process upon issuance of a modified "B" list. This notice will include the hearing designation order and will set forth the standard comparative issues and the pleading schedule to be followed by applicants and other interested parties to the proceeding.

69. Specifically, the "B" list will specify that each applicant must submit in writing its direct case 60/ within the approximately 30 day

55/ In addition, the operational differences between the low power service and full service television stations should make it unnecessary to investigate in hearing many of the issues raised in petitions to deny that we have designated in full service hearings in the past. For example, issues related to ascertainment and programming will not be relevant. Also, it rarely will be necessary to explore economic or financial issues, in light of the self-certification format of the application form. In addition, the fact that strict enforcement of the twelve-month period for construction will provide conclusive demonstration of whether an applicant's finances were sufficient makes it less important to consider this issue in hearing. Our general policy in favor of permitting free transferability of stations to some extent reduces the general efficacy of painstaking scrutiny of applications in the hearing process. Finally, as we have indicated, we believe that one principal way to expedite the hearing process is to discourage the filing of pleadings on issues that, taken alone, would be less than dispositive of the challenged application. We envision relatively simple designation orders, including only unresolved substantial and material issues of fact necessary to the disposition of the applications and the comparative criteria.

56/ Pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(e), mutually exclusive applications for the same frequency are entitled to simultaneous consideration before a grant of any of the applications. See, Ashbacker Radio Corp v. FCC, 326 U.S. 327 (1945). The Commission traditionally has afforded mutually exclusive applicants a "trial-type" evidentiary hearing and has established an elaborate set of procedural rules governing the process. See, 47 C.F.R. §§ 1.201-1.364.

57/ See, 5 U.S.C. § 556(d); 47 C.F.R. § 1.248(d).

58/ See, 5 U.S.C. § 556(b); 47 C.F.R. §1.241(a). It is within the Commission's discretion to implement largely paper hearings pursuant to Section 309(e) with the Commission presiding, under the Administrative Procedure Act. Also see, WJR v. FCC, 337 U.S. 265, 275 (1949); Bell Telephone Company of Pennsylvania v. FCC, 503 F.2d 1250 (3d Cir. 1974); cert. denied AT&T v. FCC, 422 U.S.1026, reh. denied 423 U.S. 886 (1975); RCA Global Communications, Inc. v. FCC 559 F.2d 881 (2d Cir. 1977), reh. 563 F.2d 1, appeal after remand 574 F.2d 727 (1978). Indeed, it virtually is essential that we utilize the abbreviated hearing procedures outlined herein, with only a limited right for oral testimony, at the discretion of the Commission, in light of the concomitant savings of time and resources, both for applicants and the Commission itself.

59/ Under our current procedures, the "A" list invites both petitions to deny and competing applications. Pursuant to the modified procedures set forth herein, filing of all petitions to deny will be delayed until issuance of the "B" list, which will identify all non-mutually exclusive applications, as well as mutually exclusive groups.

60/ The direct case is to be limited to 50 pages in length including any index to subject matter, argument, appendices, and other attachments. An original and one (1) copy of the pleading should be filed. The pleading must be typewritten, double-spaced, on 8 1/2 by 11 inch paper.

time period set forth therein. In addition to spelling out those facts and characteristics of its proposed operation that the applicant wishes the Commission to consider, the direct case also should include any matters that normally would be raised in a petition to deny against another applicant. Within twenty (20) days after the filing of the direct case, each applicant must submit its written rebuttal case, 61/ including oppositions to any matters raised in any petitions to deny filed against its application. Twenty (20) days thereafter each applicant may submit its written surrebuttal case, 62/ including any replies to oppositions to matters raised in its petitions to deny filed against other applicants. With its surrebuttal case, each applicant also may submit any request it has for oral hearings and cross-examination, the subject matter of the desired cross-examination, and the basis therefor. Any request for oral hearing must state specifically the evidence that would be presented, the reason why the evidence is material to determine the merits of the proceeding, why oral hearing with cross-examination is necessary to bring it out, and what evidence already in the record would be contravened (with specific identification of the pleading and the page number). All material statements contained in any pleading must be verified by the person offering the statement--i.e., the facts must be sworn to as true and within the specific knowledge of the person offering the statement.

70. Within 30 days after the filing of the surrebuttal case, each applicant must file a proposed decision. 63/ This decision must set forth such information as the Commission would find necessary to make its decision, including a brief summary of the facts, proposed findings (including findings on all allegations raised in any petition to deny), and ultimate conclusions.

71. The Commission will attempt to dispose of virtually all low power comparative cases under the paper hearing procedure set forth herein. The Commission, of course, will review requests for oral testimony at the same time the staff recommended decision is submitted for consideration. However, oral testimony will be ordered only where it is shown that the paper proceeding alone will prejudice a party; 64/ where a substantial and material issue of decisional significance cannot adequately be resolved without oral hearing; 65/ or where designation of the matter for oral testimony would be [illegible] request will not be made in a separate decision. The request will be deemed denied where the Commission decides the case on the basis of all the pleadings submitted.

72. Should the Commission determine that oral testimony is necessary, it will order that the particular issue or issues be heard by an Administrative Law Judge. The issue or issues to be tried will be set forth in an interlocutory order, which also will set a pre-hearing conference, to establish a discovery and trial schedule. At this stage, the applicants may avail themselves of the discovery procedures normally available in adjudication cases, but not before. After the Administrative Law Judge issues the initial decision on the issue[s] being tried, it may be appealed directly to the Commission.

73. With these procedures and the cooperation of applicants, we believe that most low power proceedings will be resolved on the basis of entirely written submissions within reasonable time frames. With this goal in mind, we shall require strict compliance with procedural dates. Applicants that fail to adhere to established procedural dates or that, in any way, seek to delay resolution of these hearings are subject to having their applications dismissed for failure to prosecute. See, Section 73.3568(b) of the Rules. We encourage expedition, and we are concentrating staff resources with an eye to facilitating low power application processing; nevertheless, mutually exclusive applications that require hearings inevitably will suffer delay. We anticipate that this knowledge itself will act as an incentive to private settlements.

74. Comparative Factors. In the interest of administrative simplicity and efficiency, as well as to promote particular service objectives, the Notice proposed three tentative comparative criteria, for which an applicant either qualifies or does not, without more. In order to refine these proposals, we explicitly sought comments in this area. We take the wide range of commentary received to be an indication of the controversial nature of our proposal. Some parties praise the comparative factors as proposed. Others suggest various refinements on the up-or-down nature of the preferences themselves, e.g., consideration of factors such as participation of ownership in management, program proposals, past broadcast record and civic involvement, as part of the minority ownership preference. Still others suggest preference systems more elaborate than the traditional comparative hearing criteria. See, Policy Statement on Comparative Broadcast Hearings, 1 F.C.C. 2d 393 (1965). Finally, there are those who advocate that nothing short of traditional hearings using traditional comparative criteria are permitted under the Communications Act.

75. The comments raise problems with two of the preferences proposed. Commenters generally disapprove the preference to be afforded to the first-filed complete and sufficient application. They argue that this preference has little relevance to the quality of service that may be expected from an applicant. The first come, first served preference initially was proposed for two reasons: we wished to encourage complete and sufficient applications; and we believed that in a new, uncharted service there might be a need to provide an incentive for parties to use the previously fallow spectrum. The avalanche of interim applications belied the necessity of a measure to this end, however. We still wish to encourage complete and sufficient applications. However, we are convinced that we can better do this via strict adherence to our policy of returning deficient applications, without regard to any cut-off protection that might be considered to have vested. We shall adopt the single standard for acceptance of low power applications set out in Sections 22.31(b)(2) and 22.32(b)(1) of the Rules and we shall require all applicants to meet that standard. We therefore shall not accord any preferential treatment to first-filed applications. 67/

76. On examination of the record, we perceive confusion about the notion of noncommercial or public low power stations. Noncommercial low power service is defined only in the context of the preference proposed for applicants that are nonprofit entities proposing noncommercial service for the public. There are no other rules proposed that would distinguish the character or operation of a noncommercial low power station from its commercial counterparts. Among the commenters, contradictory assumptions regarding noncommercial or public low power stations appear to be operative. 68/

77. This issue previously has not arisen in the translator service, because the rules limit translators to rebroadcast only, and they therefore fully track the mode of operation of the primary, full service station, whether noncommercial under Section 73.621 or commercial. 69/ We perceive several reasons for not imposing strict regulations regarding noncommercial operation of low power stations. With respect to all aspects except technical ones, we envision the low power service as an essentially unregulated service. The Notice specifically stated that the mode of support, including free and pay programming in any proportions, would be left to the licensees' judgment of what the marketplace requires. In light of the secondary status, the absence of a prohibition upon the free transfer of stations and the as yet undetermined viability of low power stations, we believe that the decision whether or not to air commercials, and in what amounts, should be left to the licensee's discretion. 70/ The Commission will not concern itself with this matter, nor with the corporate or organizational structure of an applicant. Whether a low power applicant or licensee is noncommercial or not-for-profit is a decision properly made by the licensee on the basis of applicable corporate and tax law, pertinent requirements of the Corporation for Public Broadcasting and perceived characteristics of the market in which it proposes to operate. Therefore, Section 73.621 will not apply to low power stations.

78. In light of the above, we are not going to adopt the three preferences proposed. 71/ We are encouraged by many commenters to expand the comparative criteria proposed in the Notice of Proposed Rule Making, to include for example, female ownership, free versus pay service, local ownership, hours of operation, rebroadcast versus origination, financial capacity, integration of ownership and management, locally-oriented programming and/or local program production. While some of these characteristics of service might be a basis for preference in particular cases or in particular areas, it is not clear that they generally should be dispositive in every case, as they would be if they operated as preference points. In many cases, the nature of the particular market proposed to be served should dictate the characteristics of service that might be considered

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61/ The rebuttal case is to be limited to 40 pages in length, including any index to subject matter, argument, appendices, and other attachments. An original and one (1) copy of the pleading should be filed. The pleading must be typewritten, double-spaced, on 8 1/2 by 11 inch paper.

62/ The surrebuttal case must be limited to 30 pages in length, including any index to subject matter, argument, appendices, and other attachments. An original and one (1) copy of the pleading should be filed. The pleading must be typewritten, double-spaced, on 8 1/2 by 11 inch paper.

63/ The proposed decision must be limited to 30 pages in length. An original and one (1) copy of the decision must be filed. The decision must be typewritten on 8 1/2 by 11 inch paper. However, it may be single-spaced.

64/ See, Section 556(d) of the Administrative Procedure Act, 5 U.S.C. 556(d).

65/ See, Section 309(e) of the Communications Act, 47 U.S.C. § 309(e).

66/ Id.

67/ Elimination of this proposed preference will not prejudice current applicants, because it was not to be effective for applications filed during the pendency of the rule making. See, note 48, supra.

68/ To receive funding from the Corporation for Public Broadcasting, a station must be both nonprofit and noncommercial, as defined in Section 397(b) of the Communications Act. A noncommercial, educational television station licensee, under Section 73.621 of the Commission's Rules, likewise must be nonprofit, noncommercial and have an educational or cultural purpose, or be a municipality with no independently constituted educational entity. In the FM and TV services, compliance with this rule is a condition of operation on a channel reserved for noncommercial use. In the AM service, where there is no table of assignments, a station may be noncommercial, educational and comply with the above definition, but there also may be stations operated by nonprofit entities that are not educational in nature.

69/ Under a 1971 policy, any applicant, noncommercial or otherwise, proposing rebroadcast of noncommercial, educational programming, has priority over a commercial translator operating on a reserved channel in the Television Table of Assignments. See, 23 RR 2d 1504, 1508 (1971). We are eliminating this policy as part of our removal of all distinctions in translator or low power status arising from operation on channels in the Table. See, paragraph 28, supra.

70/ The Public Broadcasting Amendments Act of 1981, Pub. L. No. 97-35, supra, mandated the establishment of the Temporary Commission on Alternative Financing for Public Telecommunications, whose mission it is to identify additional sources of funding to maintain and enhance public telecommunication services. The Temporary Commission was given specific authorization to conduct an Advertising Demonstration Project to test the desirability and revenue potential of advertising on public stations. In addition, other amendments to the Public Broadcasting Act (see, e.g., Section 399) specifically authorize commercial and commercial-like activities by public stations. In light of these amendments and other factors that are forcing public stations to become increasingly self-sufficient financially, we believe that those broadcasting entities that choose to operate on a non-profit basis should be given the greatest possible flexibility in raising operating revenue.

71/ We do, however, reaffirm the continuing vitality and usefulness of our minority ownership policy, as its intent was expressed in the comparative preference proposed for minority low power applicants. We shall continue to award a comparative merit on this basis in the comparative hearing. See also, Policy Statement on Minority Ownership of Broadcasting Facilities, 68 F.C.C. 2d 979 (1978).

desirable. In a secondary service, particularly one where no prohibition on "trafficking" will be imposed, (see, paragraphs 93 and 94, infra), meticulous comparative evaluation on the basis of an elaborate system of preferences easily could turn out to be a pointless, though time-consuming, exercise. Additionally, in an untested service, we cannot reliably predict what characteristics ultimately will prove desirable in a license proposal, and therefore should receive comparative preference.

79. We believe that the better course is to distill the issues that currently may be considered in broadcast application hearings to a modicum that should prove relevant for the low power service and manageable in a largely paper hearing. These include issues relating to basic qualifications as well as comparison of competing applicants. As stated above (see, paragraphs 60 through 62) we do not believe that Section 307(b) comparisons among competing low power applications is a worthwhile endeavor, because the goal of fair and efficient spectrum allocation already has been anticipated via the Tables of Assignments, and we can expect to accomplish little more by applying such analysis to a secondary service that has no required coverage area nor local programming requirement. As indicated in note 47, above, the application form has been amended to provide for certification of financial qualification, to conform to our practice with other broadcast applications. See, Appendix B. The citizenship requirement is straightforward enough. Because the Commission currently has the character requirement under scrutiny in Gen. Docket No. 81-500 (see, Notice of Inquiry, 47 Fed. Reg. 40899 (August 13, 1981)), we are not modifying this qualification for low power applications, but shall await the outcome of that Inquiry.

80. Of the comparative issues, we shall retain the criterion enunciated in our 1965 Policy Statement, supra, that we consider most relevant in the low power context, diversification of control of the media of mass communications. Along with this, we shall afford merit to applicants that are over 50 percent minority owned. We shall not consider full-time participation in station operation by owners because, in many instances, the functional characteristics of low power stations will not require such extensive involvement in the operations of a particular station by any individual, whether owner or owner's employee. Nor shall we consider program proposals, because we believe low power licensees should be fully responsive to marketplace considerations, without the Commission second-guessing their decisions. These issues are designated in full service comparative hearings only on a special showing, and they rarely are dispositive of the case. See, Chapman Radio and Television Co., et al., 7 F.C.C. 2d 213, 215 (1967); Flint Family Radio, Inc., et al., 69 F.C.C. 2d 38, 42-46 (1977), George E. Cameron, Jr. Communications, 71 F.C.C. 2d 460, 464-466 (1979). Additionally, comparative advantage generally is afforded to program proposals on the basis of local or public service programming. We are not requiring local programming by low power licensees, because we cannot determine across the board that this would be in the public interest in every market. Therefore, we would not want to afford across-the-board comparative preference for this. We are not going to consider comparative coverage, for reasons similar to those on which we base our decision not to make Section 307(b) considerations dispositive in individual cases. See, paragraphs 60 through 63, supra. We are not considering character in the comparative context, beyond the initial qualification determination (see, paragraph 74, supra). We also are not going to consider past broadcast record comparatively; because so many applicants are new entrants to the telecommunications industry, a result that we do not discourage, it could disadvantage them to accord merit or demerit that only could be garnered by applicants with previous broadcast experience. Both to facilitate expedition in the hearing process and, more importantly, because we believe that low power stations will be very directly responsive to audience needs and interests, we find it in the public interest to limit the comparative issues to diversification and minority ownership. Moreover, we believe that this combination of criteria can further a primary objective for the low power service, facilitating entry by groups and individuals that are new to the broadcast industry.

81. Low Power License Renewal. As proposed in the Notice, we are not now modifying the standards governing contested and comparative renewals. See, Notice, 45 Fed. Reg. at 69189 n. 60. Contested renewals will be handled in the manner that full service stations are at present. The license term for translators and low power stations will be five years, in accordance with the amendment to Section 73.1020(a) contained in the Order, FCC 81-497 (adopted October 30, 1981; released November 2, 1981). An abbreviated renewal form will be used, in conformity with the Commission's practice for full service stations. See, Revision of Application for Renewal of License of Commercial and Noncommercial AM, FM and Television Licensee, 46 Fed. Reg. 26236 (published May 11, 1981).

82. Modifications to the License. Sections 73.3572(a) and 74.751 currently require formal application for various equipment changes, channel changes, power changes, transmitter location changes and/or change in the primary station being rebroadcast. We are modifying this rule to include facilities or other modifications that would have a significantly greater or different preclusive effect than the existing authorization, including power or frequency change, certain equipment or other engineering modification and change in transmitter location (present Section 74.751(b) (1-5), (f) and (c)). Applications for such modifications will be treated as applications for major modification and be placed on "A" cut-off lists, subject to competing applications and petitions to deny. Transfer of ownership or control will not be considered a major modification, but applications for transfer will be subject to petitions to deny. Present or future translator licensees wishing to include low power features must notify the Commission in a manner that indicates an understanding of the additional rules with which they must comply, e.g., the operator requirements. Those wishing to change the primary station being retransmitted (present Section 74.751(b)(6)) will be subject only to a notification requirement.

VII. Low Power Station Operation

83. The Commission's ownership rules are informed by two related policies. The prohibitions upon multiple ownership at once are designed to encourage diversity of voices in the marketplace of ideas and to foster competition by preventing undue concentration of control of telecommunications facilities. The present rules are structured as barriers to entry imposed on proscribed entities in proscribed markets. 72/ In a new service, whose viability is unknown and probable competitive impact on other telecommunications services is believed not to be significant cannot yet accurately be predicted, we must exercise no less care to assure that we do not create entry barriers that fetter the development of the service. Ideally, the service effectively will compete with other video services and thus stimulate their responsiveness to market forces, and low power stations will compete with each other in a manner that promotes superior service within the low power service itself.

84. Ownership of translators did not raise the issue of diversity of voices, translators being repeater stations only. In the present ownership regulations, translators are regarded as mere extensions of the primary station and not as new voices. The present rules regarding translator ownership are:

(1) Commercial television stations may not own or financially support VHF translators in distant markets not operating on assigned channels. Section 74.732(e)(1) and (2).

(2) Cable systems may not own translators licensed to the community in which the cable system is franchised. Section 76.501(a)(3).

(3) No VHF translators may be licensed in areas receiving satisfactory service from UHF television stations or UHF translators, except where particular circumstances warrant. Section 74.732(d).

(4) Translators operating at maximum power on assigned channels may be authorized only to existing licensees of television stations, unless non-licensee applicants demonstrate the technical capability to operate them. Section 74.732(i).

The Notice proposed deletion of the first, third and fourth rules cited above. It also proposed that cable systems be permitted to own translators, but no originating or subscription low power stations, within their franchise areas. Few commenters take issue with deletion of Sections 74.732(e)(1) and (2), 74.732(d) and 74.732(i), affirming our belief that it is in the public interest to do so. Cable/low power cross ownership is discussed in greater detail, infra.

85. Several additional ownership restrictions were proposed for low power stations, but not translators, on the theory that low power stations should be treated as "voices" in the first amendment sense:

(1) A duopoly rule, which prohibits commonly-owned stations in the same service with overlapping contours.

(2) A one-to-a-market rule, which prohibits commonly-owned stations in different services with overlapping contours.

(3) The three national networks (see, Section 73.658(1)(1)(v)) would not be permitted to own any low power stations.

The duopoly and one-to-a-market rules would apply to noncommercial, as well as commercial, low power stations. No newspaper/low power cross ownership rule was proposed. Nor was a limit proposed on the maximum number of low power stations permitted in common ownership. 73/ No rule restricting regional concentration of control was proposed.

86. As the comment summary reveals, there are comments virtually on all sides of the ownership issues, with public interest groups generally supporting restrictions and broadcasters generally opposing restrictions. Citizens and consumer groups and other proponents of ownership restrictions tend to characterize the proposed ownership restrictions as devices designed to promote diversity and competition. Those opposing restrictions consider them unnecessary barriers to entry into the low power service. We find that in today's telecommunications environment in which there are an increasing number of avenues on which to communicate, there may be less need for structural restrictions designed to facilitate diverse entrants. That is, the increasing availability of other technologies for telecommunications itself is providing additional modes of access that reduce the efficacy of the scarcity rationale. These general arguments may be applied to each of the rules proposed.

87. Duopoly rule. The proposed duopoly rule is opposed particularly by those wishing to operate multiple-channel subscription systems via low power. They argue that STV may be distinguished from true origination on low power STV systems that merely retransmit terrestrial microwave or satellite feed; therefore, low power STV need not be considered a separate "voice" for multiple ownership purposes. Also, they contend that only with multiple channel capacity can low power STV compete effectively with cable.

72/ It is our intention presently to re-examine in a separate proceeding the efficacy of the Commission's ownership rules and policies in light of the conditions that prevail in today's telecommunications marketplace. Until such time as that is accomplished with respect to all broadcast services, we shall endeavor to enact flexible ownership policies for the low power service that are sensitive to the environment in which the service will develop. The low power rules of course would be subject to modification, should they deviate significantly from future revisions in our overall ownership policy.

73/ A limit of 15 stations in common ownership was imposed during the pendency of the rule making only. See, Memorandum Opinion and Order, 46 Fed. Reg. 10728 (published February 4, 1981).

74/ We perceive a difficulty in justifying a different ownership rule for STV low power stations. It is unlikely that they will operate on a subscription basis during all their hours of operation, although we are not adopting rules prohibiting this. When STV low power stations are operating in a free mode, they are indistinguishable from other low power stations, and we encourage some local origination on each station with the authority to do so.

74/ A number of comments advocate waiver of the duopoly restriction in rural areas, at least for low power STV, on the grounds that spectrum is less scarce in rural areas and viability also is less certain.

88. The Justice Department is among those who believe that a duopoly rule promotes competition. 75/ The worst-case scenario is that, in the absence of a duopoly prohibition, one entity will gain control of all available low power outlets in a community, when there are others who would, if they could obtain licenses, provide greater diversity. On the other hand, it is possible to envision more or less rural markets where only one entrepreneur would be willing to operate, using more than one channel, on a subscription basis or otherwise; if he is permitted to operate on only one channel, the other availabilities may lie fallow into the indefinite future, or he will choose not to initiate a single-channel operation, and the public will be deprived of service altogether. The irony of this situation is that it is precisely in markets that currently have the least service, where the viability of low power is the least certain, that have the greatest need for low power. On balance, we believe the public best may be served if we do not impose a duopoly restriction in the low power service. Therefore, we shall not do so.

89. One-to-a-market rule. Many commenters oppose a one-to-a-market rule, especially in the radio/low power context. Convincing arguments are made that local radio licensees already have broadcast expertise, already may have access to local and or national news services, already are familiar with the local community and may have the financial wherewithal to cross subsidize a low power operation with revenues from other broadcast properties. We agree that ownership rules that effectively restrict the entry of those with prior expertise or financial capacity can work to the detriment of a new service. Also, there may be significant economies in same-market ownership of a low power station and a broadcast station in another service. We note that the full service television/low power cross ownership situation closely resembles a duopoly situation, depending upon the nature of the low power operation, i.e., a free full service station and STV low power station that merely broadcasts satellite feed actually may be quite different and appeal to different audiences. While the proponents of a one-to-a-market rule argue that it will have the effect of promoting diversity and competition, we find the countervailing arguments in favor of free entry persuasive, especially in the context of a new service whose viability is undetermined. Moreover, where there are competing applicants, the comparative process will favor diversification. In a comparative situation new entrants will be favored, while current licensees will not be precluded from areas where new entrants may not wish to propose service.

90. Network ownership of low power stations. The three commercial networks express opposition to the prohibition on their ownership of low power stations that was proposed. They argue that their expertise can be put to good use in ensuring the viability of the fledgling service and that they are in a favorable position to develop and introduce new technological advances via low power. They dispute the contention of the Justice Department that network ownership of low power stations is highly anticompetitive and will preclude new entrants from the field. The networks cite in support of their position the Network Inquiry Staff Report's conclusion that group owners have an incentive to air diverse programming on co-owned stations, to maximize audience, rather than airing similar programming that could have the effect of fragmenting audience among several co-owned stations. We do not have sufficient evidence of the magnitude of the anticompetitive potential of network ownership of low power stations to justify implementing the rule proposed at this time. Both for this reason, and because we believe that the networks can, as they claim, contribute to the development of the fledgling low power service, we shall not prohibit network ownership of low power stations.

91. Multiple ownership of low power stations. A number of commenters advocate a limit on the number of low power stations, on diversity and competition grounds. We are encouraged to impose limits of between five and 25 on the number of stations the Commission would permit to a common owner; however, we are afforded no convincing reason, other than general administrative efficiency in application processing, for the choice of any particular number. Others point out that there are economies of scale in multiple ownership that may be essential to viablity in the low power service. As stated in paragraph 78, above, the Commission's ownership rules have a dual purpose: prevention of undue concentration and promotion of diversity. The over 6,000 applications currently on file evince an array of diverse kinds of applicants and program proposals. And, as we stated in the Notice: "The concern for anticompetitive effects is lessened where the stations are both secondary and inherently limited in their coverage potential." 45 Fed. Reg. at 69184. The comments do not persuade us to the contrary. That is, we regard low power as neither a signficant and general enough competitive threat to other broadcast services nor sufficiently distinct as a market in itself that monopolization should be considered a serious or dangerous enough possibility to warrant structural restraints on ownership. Should a real threat of inappropriate economic concentration arise as the service develops, it can be addressed via antitrust enforcement or by the Commission in appropriate proceedings.

87. We are told by some commenters that a ceiling on multiple ownership would prevent low power network formation. We believe, however, that program-oriented networking of stations can occur other than via common ownership of numerous stations. Affiliation for program distribution or syndication is an alternative. Also, a series of satellite or terrestrial microwave interconnected translators may be used to relay programming originated by one low power station. This suggests that common ownership of a number of low power stations is not necessary to the provision of common programming. However, with a network consisting of commonly-owned low power stations, as opposed to translators, the potential exists for each station to originate some programming targeted to discrete local or regional interests. This is a result that we would encourage. Additionally, there may be economies of scale in common ownership of a number of low power stations other than those related to program acquisition or distribution. It is our present belief that the potential economic savings of multiple ownership far outweigh a remote potential of undue concentration. For this reason, we are not imposing a ceiling on the number of low power stations that may be owned in common. We also shall not impose a rule relating to regional concentration of control.

93. Low power/cable cross ownership. The cable/low power cross ownership issue is treated similarly in the comments to cross ownership of low power and other broadcast services. The Justice Department is among those that believe that a cable system owning a low power station in its franchise area has an incentive not to maximize the potential of the low power station, because it would compete with the cable system. Other commenters argue that there may be rural areas where the cable operator is the sole potential low power licensee, and that in such cases diversity will be enhanced, not inhibited by cable/low power cross ownership. 76/ We note that issues affecting cable cross ownership are under separate consideration. 77/ Without prejudging any subsequent proceeding involving the full service/cable cross ownership rulea, we believe that in the low power service, the possible economies of scale, including those relating to program distribution, favor our permitting cable/low power cross ownership. Therefore, we believe that there should be no restraints on cable/translator cross ownership.

94. Summary. As the preceding discussion indicates, the primary considerations that inform our deliberations on all aspects of the owership policy are that low power may provide an opportunity for new entrants into the telecommunications industry at lower cost than would be incurred in starting full service stations or cable systems. Because of both the low cost and the comparative criterion favoring diversification, even absent ownership restrictions, it is unlikely that new entrants will be precluded by existing broadcasters. Additionally, in some areas, the development of the service itself might be fettered irretrievably, were we to impose inviolable rules that eliminate experienced broadcasters with the potential to make the service viable. This is so particularly in markets where an owner of other broadcast properties might be the sole potential entrant. Furthermore, NTIA points out in comments that an alternative to imposition of ownership rules that accommodate the latter concern is the adoption of policies that apply in the comparative situation. That is, ownership of other local or distant outlets would not be considered when no one but a sole applicant is applying for the frequency; but only when there are competing applications. NTIA suggests that in such cases a comparative demerit or disadvantage be given to applicants that already own facilities, in local or distant markets. This approach resembles that taken in the traditional comparative hearing context, where diversification of ownership is part of the standard comparative issue among competing applicants, and we are continuing to apply that criterion in the low power service.

95. In summary, we are adopting no ownership restrictions per se for the low power service. This approach is in accord with our general belief that free entry into and out of the low power industry will best serve potential applicants and also the public. Low power stations have limited coverage potential, which effectively limits the area from which advertising support may be garnered; their secondary status poses the possibility that they might be required to alter facilities or cease operation at any time; the majority of channel availabilities are in rural areas, where viability generally is less certain than in urbanized areas. We believe these factors augur in favor of permitting experienced participants in the market to pioneer the low power service and outweigh our traditional concerns regarding multiple and cross-ownership. We do not wish to discourage new entrants, and we note again that the comparative criterion favoring diversification will inure to their benefit. However, we also recognize the important role those with proven track records may play in the development of the service, particularly in localities that individuals inexperienced in the market may perceive as posing too great an economic risk to warrant entry.

VIII. Low Power Station Operation

96. Construction Permit. Section 73.3598(b) will be applied to low power, and the Commission will strictly enforce the requirement that construction must be completed and the station be operational within twelve months of issuance of the authorization, or the construction permit must be turned back to the Commission. We envision no extensions of time with regard to this rule, the only possible exception being documented evidence of unforeseen and unavoidable delay in delivery of equipment that was contracted for properly. We do not believe this rule is overly stringent, in light of the relatively minimal burdens of construction of low power stations, as compared with full service stations. Section 73.3597(e) and (f), which prohibits payments upon assignment or transfer of a construction permit from exceeding reimbursement of the transferor's expenses and limits the equity interest that a transferor or assignor may retain in the permittee to a proportion equal to the transferor's capital contribution, until the station commences program test operations, also will be strictly applied in the low power context, as with the other broadcast services. This appears to be an

75/ The comments afford two contradictory economic theories that predict the behavior of common owners of stations in the same service in the same market. There may be an incentive not to actualize fully the potential of one commonly-owned facility, in order not to draw from the audience of the other. On the other hand, in a more formated service, an owner might attempt to attract different audiences with different kinds of programming on each commonly-owned station, and to add to the total audience without fragmenting the audience of either station. The Commission's Network Inquiry Staff Report, New Television Networks: Entry, Jurisdiction, Ownership and Regulation, October, 1980, describes such a result. The nature of the particular market would seem to be essential to realistic prediction of whether in fact this will occur.

76/ We believe that this would depend on the nature of the particular market: where a cable operator has little hope of garnering additional subscribers, there may be an incentive to maximize total audience with a low power operation. On the other hand, where there is head-to-head competition between cable and low power for audience, the service affording the lowest marginal cost per viewer, or greatest profit margin per viewer, may be favored by a common owner.

77/ See, Staff Report, FCC Policy on Cable Cross Ownership, November, 1981. We believe that permitting cable/low power cross ownership could provide valuable data for any proceeding that is initiated regarding cable cross ownership, in general. We received little commentary regarding the proposed deletion of Section 76.501(a)(3), which prohibits cable/translator cross ownership. We note that, where there are competing applicants for a translator, one a cable operator and one unaffiliated, the comparative criteria would favor the unaffiliated applicant. As the Staff Report pointed out in paragraph 362, this is the only area of real concern.

area in which Sections 301 and 304 of the Communications Act, as well as general public interest concerns, dictate that regulation should be continued. Sections 301 and 304 provide, inter alia, that licenses issued by the Commission convey no property interest. Allowing profit to be obtained upon transfer of a construction permit prior to commencement of program test operations appears to violate this prohibition. The permittee would appear to have nothing to convey for profit beyond the mere expectation of future profits that appends to the permit itself. Also, implicit in the filing of an application is an intent to construct a station and commence service. To maintain the integrity of the Commission's processes and to encourage the expeditious introduction of new service in an environment in which free transferability of stations is permitted, we believe it is in the public interest that Section 73.3597(e) and (f) be maintained for the low power service.

97. License. We received one comment seeking that the format for the call sign for low power stations be changed to a five-letter one resembling the four-letter call signs assigned to full service stations. We believe that the confusion that is likely to result from such a change, as well as the administrative inconvenience of carrying it out, are not justified by the result. Therefore, we shall continue to assign low power call signs as we assign translator call signs.

98. We proposed in the Notice that Section 73.3597(a) through (d), the "three year rule" not apply to low power stations. We opined that permitting free transferability of stations would encourage entrants into the industry, as well as provide a useful example for reference in other contexts. Indeed, we recently have sought comments on a proposal to do away with the "trafficking" issue altogether, on the grounds that the rule no longer serves a useful purpose in the present telecommunications environment. See, Notice of Proposed Rule Making, Amendment of Section 73.3597 of the Commission's Rules, supra.

99. The comments on the proposal not to impose an anti-"trafficking" rule in the low power service were divided. The Justice Department supports a policy facilitating ready entry into and exit from the market. The principal objection to the absence of a "trafficking" prohibition is voiced by groups that would hope to garner preference in the competition for licenses. They complain that the preference system easily can be defeated, unless the Commission imposes either a required holding period for the original licensee, or a condition that the station be transferred only to another preferred entity. We do not gainsay the cogency of this argument. However, it rests on an incorrect assumption about the purpose of a system of preferences. It is the statutory duty of the Commission to allocate the use of broadcast spectrum in a manner that best serves the public interest. This may be accomplished via comparative hearing, comparative preferences or lottery. However, requiring an unwilling licensee to retain an unwanted broadcast property hardly can result in the best service to the public. The Commission ought not to second guess private decisions that are made in response to marketplace forces, but should permit stations to be put to the highest valued use in the marketplace. Therefore, we shall not impose a "three year rule" in the low power service. We shall, however, impose a one-year holding period on new low power licenses in order to maintain the integrity of the Commission's comparative processes in situations where the construction permit was awarded by virtue of a comparative preference.

100. Station Management. The Commission's rules and policies governing Equal Opportunity in Employment will apply to all low power stations. Reporting requirements will apply to those with sufficient employment levels to trigger the requirements. See, Section 73.2080 of the Rules, which imposes a reporting requirement on all stations with five or more full-time employees. While some commenters argued forcefully to the contrary, we continue to believe that Sections 318 and 325(a) of the Communications Act require that all originating low power stations have an operator holding at least a Restricted Radio Telephone Operator's Permit in continuous attendance during local originations. It appears that some parties misunderstood the nature of the requirements proposed, for a number of comments argue that a low power station merely retransmitting terrestrial microwave or satellite feed should not require a full-time operator. We proposed that, during microwave-fed retransmissions, the statutory operator requirement would be fulfilled in the same manner as the current requirement for all translators employing modulators: observation of the off-air signal for ten continuous minutes each day on a conventional television receiver. In cases of local origination, the operator must be in continuous attendance at the transmitter site, at a remote control point or at the program source. These operator requirements are neither extraordinary nor overly burdensome, and we shall maintain them until and unless they are made unnecessary by legislative change.

101. Low Power Station Maintenance. We shall require translator and low power licensees to comply with Sections 74.752(c), (d) and (e) and also to measure the carrier frequencies of their output channels at least once a year, and as often as necessary to assure compliance with the frequency tolerance standards. See, paragraph 39, supra. The aural carrier frequency of stations employing modulators also must be measured, but we would permit factory measurement of the modulation characteristics. Proof of performance may be certified by a holder of a General Operator's permit. 78/ Maintenance logs must be kept by all translator and low power station licensees. See, Section 74.781.

IX. Programming

102. Station Identification. We shall require low power stations, during periods of program origination, to comply with the station identification requirements of full service broadcast stations. See, Section 73.1201. However, we shall continue to allow translators, and low power stations operating in a rebroadcast mode, to be identified in accordance with the current provisions of Section 74.783.

78/ The General Radiotelephone Operator's license now is issued in place of both First and Second Class licenses. See, Report and Order, Docket No. 20817, Radio Operator Licensing Program, 46 Fed. Reg. 35450 (published July 8, 1981).

103. We believe that low power stations should be subject to a minimum of program-related regulations, so that they might be fully responsive to marketplace conditions. We received comments urging a panoply of programming rules, some even more stringent than those governing full service stations. We do believe this kind of governmental surveillance is neither necessary nor appropriate. In many instances, particularly in rural or remote areas, low power stations will be set up specifically to fill local needs. In areas where the marketplace demands coverage of local events of common interest, licensees can be expected to provide it. In some urban markets, unserved ethnic enclaves may be targeted for low power service. But in a major market that already receives adequate local coverage from several full service stations, a low power licensee may discover and attempt to fill a need for additional national news, sports or entertainment programming. Such judgments properly are left to licensees; it is in their interest, and the public's, to garner audience by attempting to serve unmet needs.

104. The principal structural limit we shall impose on low power stations with respect to programming is that the programming aired must comply with the definition of "broadcast" in the Communications Act and Section 73.641(b) of the Commission's Rules. Where a potential use of radio frequencies has not yet been authorized for broadcast use, it will not be permitted via low power. See, e.g., Notice of Proposed Rule Making, Amendment of Part 73 to Authorize Transmission of Teletext by TV Stations, BC Docket No. 81-741, 46 Fed. Reg. 60851 (published December 14, 1981). Nor may low power stations be used for private communications, a service provided more suitably by point-to-point private and common carrier services. See, e.g., Report and Order, Docket No. 19493, Amendment of Parts 1, 2, 21 and 43 of the Commission's Rules and Regulations to Provide for Licensing and Regulation of Common Carrier Radio Stations in the Multipoint Distribution Service, 45 F.C.C. 2d 616 (1974). Finally, while we repeatedly have acknowledged the difficulty of adhering strictly to any definition by which translators and low power stations may be distinguished, we continue to believe that the distinction is best framed in terms of rebroadcast versus origination. Under Section 74.784 of the Commission's Rules, rebroadcast is simultaneous retransmission of the signal of an existing TV broadcast station. Anything other than this is, by definition, origination, for which a low power license is required. Whether or not the low power licensee engages in any local origination, broadcasts a network feed, offers a subscription service, etc., the potential to do so defines the station.

105. Statutory requirements. As we have indicated, the statutory prohibitions on the broadcast of obscene material, plugola, payola and lotteries apply to the low power service. See, 18 U.S.C. 1304, 1464, Section 303(m)(D) of the Communications Act of 1934, as amended, and Section 73.1211 of the Commission's Rules. 47 C.F.R. §73.1211 (1980). Our rule requiring fairness in licensee-conducted contests also will apply. We also shall continue to impose Fairness Doctrine obligations in the low power service only to an extent consonant with a station's origination capacity. If the Commission receives a complaint related to Part I of the Fairness Doctrine, the station may meet it by showing that it aired responsive issue-oriented programming submitted in a mode compatible with the station's origination equipment. Likewise, to meet its obligation under Part II of the Fairness Doctrine, the station must make time available, with or without sponsorship, to responsive issue-oriented programming submitted in a format compatible with the station's origination equipment. The Fairness obligation would be on a sliding scale, depending upon the direct involvement of the station management in program production and decisions. Similarly, Sections 312(a)(7) and (f) and 315 will apply to low power stations, to the extent that their origination capacity permits. See, Alaska Public Broadcasting Commission, 82 F.C.C. 2d 220 (1980). The reasonable requests of legally qualified candidates for federal elective office who seek to purchase reasonable amounts of time or respond to their opponents' messages must be acceded to, so long as they provide program material that is compatible with the station's origination equipment. See, Public Notice, Acceptance of Political Advertising by UHF Translator Licensees, 62 F.C.C. 2d 896 (1976). Without prejudging issues in our pending rule making on DBS, we note that the hybrid nature of subscription television, which suggests that statutory provisions for broadcast stations properly may not apply to STV stations, has been raised in the DBS proceeding. See, note 17, supra. In light of the fact that numerous low power applicants envision subscription service, the resolution of that issue in the DBS proceeding may have a direct bearing on our present conclusions regarding the applicability of these statutory provision to low power STV stations.

106. We are not imposing a formal ascertainment obligation on low power stations. It is in the nature of low power stations to be familiar with and responsive to the needs of the viewers they serve. Formalizing this would be needless. To be viable in the highly competitive telecommunications marketplace, these small stations will have to react with sensitivity to the needs and desires of their markets. Similarly, we are leaving decisions regarding commercialization and nonentertainment programming to the licensees' discretion. Such regulations also would have little public interest value. Indeed, at a time when the continuing vitality of such content-oriented regulations increasingly has been called into question even with respect to full service stations, it would be unreasonable to apply them to low power. See, e.g., Report and Order, Deregulation of Radio, 84 F.C.C. 2d 968 (1981), reconsid. denied, 87 F.C.C. 2d 797 (1981). Consonant with this view, we are requiring no minimum hours of operation in the low power service, nor the maintenance of program logs, but only maintenance logs.

107. Applicability of Copyright Law to Low Power Service. As we have recognized, the copyright laws apply fully to translators and low power stations. Under the General Revision of the copyright law, Pub. L. No. 94-553, 17 U.S.C. 101 et seq. (1976), translator and low power operations are subject to full copyright liability, with an exception for secondary transmissions made by local governments or non-profit organizations. See, 17 U.S.C. §111(a)(4). Section 325(a) of the Communications Act requires the consent of the originating station for rebroadcast of programming. Also see, Sections 73.1207 and 74.784(b) of the Rules. Retransmission consent may not unreasonably be refused. See, e.g., Memorandum Opinion and Order, Docket No. 9808, 17 Fed. Reg. 10309 (1952). We believe that this standard is appropriate to govern the negotiations of low power operators for program services, until and unless legislative change preempts it. Presumption of rebroadcast consent, sought by National Translator Association, could amount to a

substantive modification of the initial bargaining positions of the parties, one for which we do not see a necessity. Likewise, the specific standards for refusal of consent and terms for consent agreement, sought by the Washington State Association of Broadcasters, if enacted by this agency via rule making, would amount to a substantial intervention of the government in what properly should be left to private negotiations between parties at arm's length. We also believe that commercial substitution should be permitted, with consent, subject to the negotiations of the parties. Although the Washington State Association of Broadcasters opposes this, it is possible to envision a situation in which the primary station may benefit from allowing commercial substitution, and we believe the issue is best left to the parties.

108. Low Power Subscription Service. As we proposed, we are permitting STV via low power, at the licensees' discretion, and not subject to a "complement-of-four" restriction. 79/ STV may be particularly suited to formated programming on low power stations; indeed, in some markets it may be essential to the viability of the service. We believe that STV and low power share the potential to accelerate utilization of unused channels, provide viable financial support for specialized programming and small market stations and respond to the interests of the audience. We are not requiring a separate STV authorization, although proposed subscription operation must be indicated on the application form, and existing low power licensees that are providing free service wishing to change to subscription service must so notify the Commission via an application for minor modification. We also will not require low power STV stations to file their franchise agreements with the Commission, although we shall require that such agreements be consistent with the rules applicable to full service STV agreements, Section 73.642(e). Licensees, however, must provide a copy of the franchise agreement for public inspection at the station office. Consonant with the First Report and Order in Docket No. 21502, adopted September 25, 1979, FCC 79-535, 45 Fed. Reg. 60091, published October 18, 1979, we are not setting technical compatability standards for low power STV equipment. We also are not requiring any minimum hours of free programming, because this requirement could prove overly burdensome to low power operators, and would not be consonant with the absence of minimum required hours of operation. See, paragraph 101, supra.

109. We note that several of the issues relating to STV are under separate consideration in Docket No. 21502. See, Further Notice of Proposed Rule Making, FCC 81-449, adopted September 30, 1981, released November 13, 1981. That document explicitly leaves resolution of STV issues related to low power to the instant proceeding. There is one area, however, where we believe the issues are more appropriately addressed in the context of the separate proceeding on STV. That area is the sale of decoders. The Notice in the instant case proposed that decoders could be sold or leased, at the low power licensee's discretion. We received some comments on both sides of this issue, including a petition seeking consolidation of the STV and low power proceedings, filed by the Subscription Television Association. While that petition was denied (see, Further Notice, Docket No. 21502, supra, paragraph 58), we believe this particular issue would be the subject of more narrowly focused debate in the proceeding focused exclusively on subscription television service, particularly because we have sought comments on a proposal to permit the sale of decoders generally in that proceeding. Therefore, we shall defer resolution of the issue of the sale of decoders in this docket, pending its resolution in Docket No. 21502. 80/ Except in this respect, we believe that the functional differences between low power and full service stations, as well as the secondary nature of the low power service, and its inherently limited coverage potential, justify a distinction in regulatory treatment between full service and low power stations. Again, we note that the structuring of subscription on a broadcast model has been called into question in the DBS proceeding. See, note 17, supra. Without prejudging issues in our separate STV or DBS proceedings, we believe it is appropriate to acknowledge the possibly hybrid nature of subscription service in our treatment of low power STV stations, particularly in light of the fact that low power is something of a hybrid service itself.

110. Network Affiliation. in the interest of ensuring even-handed treatment of all network affilites, full service or low power, we are requiring that any affiliation agreements between low power stations and networks will be subject to the same regulations as full service station affiliation agreements, see, Sections 73.658 and 73.3613 of the Commission's Rules.

111. Mandatory Carriage. We proposed no mandatory carriage requirement of low power stations by cable systems. See, Notice, 45 Fed. Reg. at 69183 n. 31. 81/ This issue was hotly contested in the comments. A number of parties, including ABC, NTA and the National Association of Low Power Broadcasters, advocate mandatory carriage, on the grounds that "may carry" status could put low power stations at a serious competitive disadvantage, especially in markets where cable penetration is high. The National Cable Television Association, on the other hand, resists "must carry" rules for low power, on the grounds that they violate the first amendment rights of cable operators to choose the programming they carry and are anticompetitive. Field adds that, without a local public sevice requirement, low power stations do not fulfill the intent of the "must carry" rules: maintenance of local broadcast coverage within a market.

112. We carefully have considered both sides of the dispute. We believe that the decision whether a low power station will be carried on a local cable system is one best left to the private parties. Noting that the mandatory carriage issue is under consideration in connection with pending copyright legislation, and may well be considered by the Commission in the near future, we do not wish to prejudge or preempt forthcoming developments in this area. While we are not here questioning the continuing usefulness of our rules that require carriage of local full service stations by cable systems, we believe that it is not in the public interest to extend this rule to low power stations. Low power stations are not subject to the programming obligations with regard to the community of license that form the basis for our requiring carriage of full service stations. Additionally, it will not further our goal of fostering a fully competitive telecommunications marketplace if the Commission, by regulation, injects itself between the parties to what should be a private decision-making process. The cable operator, on the basis of his own assessment of marketplace conditions, not the FCC, should decide what programming a cable system will carry, beyond that required by our present carriage rules. Indeed, it is reasonable to assume that, if a cable system has excess channel capacity, it will carry low power programming. Where there is no excess channel capacity, the cable operator should not be required to make the hard choice beteween the low power signal and other programming for which his subscribers may indicate demand via pay mechanisms, when he already carries the local full service stations. And where low power must compete with other program sources for cable carriage, absence of "must carry" protection could be a spur to low power's provision of creative, innovative programming. This also may encourage low power applicants to seek out remote, unserved areas where cable is thought not to be viable economically, and thereby to fill gaps in existing television coverage, a function for which low power stations are uniquely suited. It is not inconceivable that provision of a high isolation switch, so that both cable and broadcast may be received alternately on the subscriber's set, may be negotiated, at the expense of one, or both, parties in situations where a cable system truly is unwilling or unable to carry a low power station. Finally, until and unless it becomes clear that low power stations are not being carried on cable systems, we have no reason to believe that a "must carry" rule for low power will be useful or necessary.

113. Alaska. The Alaska Public Broadcasting Commission evinces concern that several of the technical rules proposed in the Notice (and adopted herein) for the low power service would be overly burdensome, as well as unnecessary. For example, on-site measurement of frequency tolerance and on-site proof-of-performance certification would be prohibitively expensive, as well as unnecessary. APBC also avers that the operator requirement is unnecessary, as the Alaskan stations primarily engage in rebroadcast. We acknowledge that Alaska is a "special case," because the low power concept long has been in use there, on a waiver basis, and it is the only means by which much of the State may receive television service. See, e.g., Wrangell Radio Group, supra. We agree that the present maintenance program that the state carries out is adequate, and we shall not impose additional requirements in that area. Also, to the extent that we are adding other rules, such as the full-time operator requirement for local originations, that exceed the requirements to which the Alaskan low power facilities previously have been subjected and would be particularly burdensome in that unique environment, we shall continue to authorize waivers where appropriate.

114. Emergency Broadcast System Participation. Translator stations normally would carry any Emergency Action Notification alert messages originated by the full service TV broadcast station being retransmitted. However, low power stations, during periods of program origination, would have the obligation, similar to other broadcast stations, promptly to inform viewers of an Emergency Action Notification under the established Emergency Broadcast System procedures. Low power stations therefore will be expected to comply with the EBS procedures set forth in Subpart G of Part 73 of the rules with one exception because of the expected limited coverage area and unspecified operating schedule. Although encouraged to do so, low power stations will be exempted from the requirement to install the encoding device for generating the two-tone EBS attention signal. This exemption is similar to that afforded 10 watt noncommercial FM stations. Subpart G is being amended to accommodate this exemption.

X. Conclusion.

115. The rules promulgated herein represent, we believe, judicious balancing of competing concerns, for spectrum, for broadcast licenses, for overall maintenance of a healthily competitive telecommunications environment. The record adduced in this proceeding proffered opinion from all sectors on all aspects of the Commission's original proposals. With the comments as a basis, we have resolved the six decision criteria with which we commenced this proceeding in 1978. In light of the comments, and the Commission's intervening experience, it will be noted, we modified, to some extent, the proposals of the Notice. The one sentiment that has remained unshaken by the controversy surrounding this proceeding is that the low power service can provide additional television service, particularly in areas where there currently is little or none.

116. The existence of so many pending applications, filed by so many eager applicants, may belie, to some degree, the uncertainties to which the fledgling service will be subjected as it becomes operational. As the public has been reminded, a low power license may not be a license to print money. It certainly is, however, a license to serve the public. It is in this spirit that we authorize the low power service today. The Commission has every hope that low power will succeed in the marketplace, adding to the mix of competitive technologies in today's telecommunications environment and acting as a bellwether for "unregulation" of the broadcast services generally.

79/ This rule restricts STV operations to communities within the Grade A contour of at least five commercial television stations, including that of the STV operator.

80/ Interim low power grantees proposing STV have been informed that they may not sell decoders until the Commission finally has resolved this issue.

81/ Under the present rules, cable systems must carry, as well as full service stations, commercial translators over 100 watts and educational translators over 5 watts within a 35-mile radius of the cable system, except where this would result in substantial duplication or the cable system already carries the primary station. See, Sections 73.55(c)(1) and (2); 76.57(a)(2); 76.59(a)(5); and 76.61(a)(3).

112. Regulatory Flexibility Act - Final Analysis 82/

a. Need for and Purpose of Rules. The rule amendments promulgated herein are necessary to achieve the goal of additional low-powered television stations, for which the record indicates an overwhelming public demand. While the Commission intends the low power service to be a largely unregulated service, it nevertheless is essential that the technical aspects of the service, from application processing to operating specifications, be strictly maintained, to ensure that low power stations do not cause destructive interference to full service stations or to each other.

In view of the unexpectedly great numbers of TV translator and low power applications filed since the initiation of the rule making, as well as additional applications anticipated upon the lifting of the present moratorium, additional technical standards were proposed in the Further Notice to facilitate more fully automated application processing. The Commission's rules for TV translators did not contain precise standards for determining mutual exclusivity between proposed stations. A mode of processing that left much to engineering judgment was believed not to be feasible for use with large numbers of competing applications. The Commission herein adopts standards of prohibited contour overlap that will facilitate automated processing.

b. Comments. We received little commentary directly in response to the Initial Regulatory Flexibility Analysis. Several parties took issue with our prediction that the proposed technical standards would not significantly increase the burdens attendant upon preparation of the engineering section of the application. They evince particular concern about the burden of calculating antenna radiation center height above average terrain (HAAT). 83/ The Commission acknowledges the possible validity of this position. However, it is our belief that the two major competing considerations, expeditious reduction of the application backlog and spectral efficiency, override the possibly increased burdens on applicants. In the long run, it is our position that the increased opportunity in broadcasting provided for small entrepreneurs by authorization of the low power service is a much more significant overall benefit of the rule changes than the details required in making an application.

c. Alternatives Considered. The alternatives to the mode of processing are: (1) a table of assignments for low power stations, which was ruled out as too great an administrative burden on the Commission, as well as spectrally inefficient; (2) processing using assumed antenna heights, which also is spectrally inefficient; (3) processing taking actual, instead of average terrain factors into account, which also is too cumbersome administratively and may create too great a risk of interference; and (4) not authorizing the service at all, a result not supported by the record. The technical rules adopted herein, represent an optimal compromise between factors of spectral efficiency, prevention of undue interference, administrative efficiency and cost to both applicants and the Commission. As stated above, the overall effect of the rule changes is to create additional opportunities for small entrepreneurs to own and operate new broadcast facilities by using spectrum where full service stations would cause and sustain interference. The low power service is subject to a minimum of regulations; however, certain technical requirements are essential to national spectrum management and compliance with these bears a cost that must be sustained by applicants and station operators.

d. The Secretary shall cause a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 50 U.S.C. et seq.).

118. In light of the foregoing and pursuant to authority contained in Sections 1, 4(i) and 303 of the Communications Act of 1934, as amended, IT IS ORDERED, That the rule amendments set out in Appendix A ARE ADOPTED; and

119. IT IS FURTHER ORDERED, That the petitions for reconsideration of the April 9, 1981, Order, FCC 81-173, filed by the Association of Maximum Service Telecasters, Bogner Broadcast Equipment Corp., the National Association of Broadcasters and the National Translator Association, ARE DISMISSED; and

120. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

121. For further information concerning this proceeding, the contact person is Edythe Wise, Broadcast Bureau, (202) 632-7792.

FEDERAL COMMUNICATIONS COMMISSION *

William J. Tricarico
Secretary

Attachment: Appendices

*Statements of Commissioners Fowler, Chairman; Dawson, Washburn, Fogarty and Rivera attached.

82/ The Notice of Proposed Rule Making in this proceeding was promulgated prior to the effective date of the Regulatory Reform Act of 1980, so that no comments on the particular impact on small businesses were elicted therein. The Further Notice of Proposed Rule Making, however, was subject to the Act. This Final Analysis addresses issues raised in the Initial Analysis, at paragraph 29, of the Further Notice.

83/ Applicants are not required to compute this figure as part of the application process. Indeed, in most cases of UHF low power applications, conformance with the "UHF" taboos, formerly in Section 74.702(c)(2), will ensure a noninterfering application. However, because the Commission will make the calculation and use it in processing, it may be presumed that most, if not all, applicants will base their own engineering calculations upon HAAT.

APPENDIX A

1. Section 73.601 is revised in its entirety to read as follows:

§73.601 Scope of subpart.

This subpart contains the rules and regulations (including engineering standards) governing TV broadcast stations, including noncommercial educational TV broadcast stations and, where indicated, low power TV and TV translator stations in the United States, its Territories and possessions. TV broadcast, low power TV, and TV translator stations are assigned channels 6 MHz wide, designated as set forth in §73.603(a).

2. Section 73.903 is revised in it entirety to read as follows:

§73.903 Emergency Broadcast System (EBS).

The EBS is composed of AM, FM, and TV broadcast stations; low power TV stations; and non-government industry entities operating on a voluntary, organized basis during emergencies at National, State, or Operational (Local) Area Levels.

3. Section 73.904 is revised in its entirety to read as follows:

§73.904 Licensee.

The term "licensee" as used in this Subpart means the holder of a broadcast station license granted or continuing in force under authority of the Communications Act of 1934, as amended. Such licensee includes any AM, FM, TV, or low power TV station holding a valid license, program test authorization, or other authorization permitting regular programming operation.

4. SECTION 73.932 AMENDED:

The second sentence of paragraph (b) in Section 73.932 is revised to read:

All broadcast station licensees except noncommercial educational FM stations authorized to operate with transmitter output powers of 0.010 kW or less and low power TV stations, must install, operate, and maintain equipment capable of generating the Attention Signal (see §73.906) to modulate the transmitter so that the signal may be broadcast to other stations.

5. SECTION 73.961 AMENDED:

The last sentence of paragraph (c) of Section 73.961 is revised to read:

These tests will be conducted in accordance with the procedures set forth in the EBS checklist furnished to all broadcast stations. However, Class D noncommercial educational FM stations authorized to operate with transmitter output powers of 0.01 kW or less and low power TV stations need not transmit the two-tone EBS Attention Signal.

6. Section 73.1001 is amended by revising paragraph (c) to read as follows:

§73.1001 Scope.

* * * * *

(c) Certain provisions of this Subpart apply to International Broadcast Stations (Subpart F, Part 73), TV translator stations, and low power TV stations (Subpart G, Part 74) where the rules for those services so provide.

* * * * *

7. Section 73.1010 is amended by revising paragraph (e) to read as follows:

§73.1010 Cross reference to rules in other Parts.

* * * * *

(e) Part 74 (Volume III), "Experimental, Auxiliary and Special Broadcast, and Other Program Distributional Services" including Subparts on the following stations: A, "Experimental Television--," B, "Experimental Fascimile--," C, "Developmental--", Instructional TV Fixed Service--," L, "FM Translator and Booster--."

8. Section 73.3500 is amended by revising the titles for FCC Forms 346, 347, and 348 as follows:

* * * * *

346 ..... Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator, or FM Translator Station.

347 ..... Application for a Low Power TV, TV Translator, or FM Translator Station License.

348 ..... Application for Renewal of a Low Power TV, TV Translator, or FM Translator Station License.

* * * * *

9. Section 73.3516 is amended by revising paragraph (a) to read as follows:

§73.3516 Specification of facilities.

(a) An application for facilities in the AM, FM, or TV broadcast services or low power TV service shall be limited to one frequency, or channel assignment, and no application will be accepted for filing if it requests alternate frequency or channel assignments.

* * * * *

10. Section 73.3533 is amended by revising paragraph (a)(7) to read as follows:

§73.3533 Application for construction permit.

(a) * * *

* * * * *

(7) FCC Form 346, "Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator, or FM Translator Station."

* * * * *

11. Section 73.3536 is amended by revising paragraph (a)(7) to read as follows:

§73.3536 Application for license to cover construction permit.

(a) * * *

* * * * *

(7) FCC Form 347, "Application for a Low Power TV, TV Translator, or FM Translator Station License."

* * * * *

12. Section 73.3539 is amended by revising paragraph (d)(8) to read as follows:

§73.3539 Application for renewal of license.

* * * * *

(d) * * *

* * * * *

(8) FCC Form 348, "Application for Renewal of Low Power TV, TV Translator, or FM Translator Station License."

* * * * *

13. Section 73.3564 is amended by revising paragraph (a) to read as follows:

§73.3564 Acceptance of applications.

(a) Applications tendered for filing are dated upon receipt and then forwarded to the Broadcast Bureau, where an administrative examination is made to ascertain whether the applications are complete. Except for low power TV and TV translator ppplications, those found to be complete or substantially complete are accepted for filing and are given file numbers. In the case of minor defects as to completeness, the applicant will be required to supply the missing information. Applications that are not substantially complete will be returned to the applicant. In the case of low power TV and TV translator applications, those found to be complete are accepted for filing and are given file numbers. Low power TV and TV translator applications that are not complete will be returned to the applicant.

14. Section 73.3572 is amended by revising the headnote and paragraph (a)(1) to read as follows:

§73.3572 Processing of TV broadcast, low power TV, and TV translator station applications.

(a) * * *

(1) In the first group are applications for new stations or major changes in the facilities of authorized stations. A major change for TV broadcast stations authorized under this Part is any change in frequency or station location, or any change in the power or antenna location or height above average terrain (or combination thereof) that would result in a change of 50% or more of the area within the Grade B contour of the station. (A change in area is defined as the sum of the area gained and the area lost as a percentage of the original area.) In the case of low power TV and TV translator stations authorized under Part 74, it is any change in:

(i) frequency (output channel) assignment;

(ii) transmitting antenna system including the direction of the radiation, directive antenna pattern or transmission line;

(iii) antenna height;

(iv) antenna location exceeding 200 meters;

(v) authorized operating power; or

(vi) community or area to be served.

However, the FCC may, within 15 days after the acceptance of any other application for modification of facilities, advise the applicant that such application is considered to be one for a major change and therefore subject to the provisions of §§73.3580 and 1.1111 pertaining to major changes.

* * * * *

15. Section 73.3580 is amended by revising paragraphs (c) [introducation], (d)(3) [introduction], and (g) [introduction] to read as follows:

§73.3580 Local public notice of filing of broadcast applications.

* * * * *

(c) An applicant who files an application or amendment thereto which is subject to the provision of this Section, must give a notice of this filing in a newspaper. Exceptions to this requirement are applications for renewal of AM, FM, TV, and International broadcast stations; low power TV stations; TV and FM translator stations; FM booster stations; and applications subject to paragraph (e) of this Section. The filing notice shall be given in a newspaper either immediately following the tendering for filing of the application or amendment, or immediately following notification to the applicant by the FCC that a major change is involved requiring the applicant to give public notice pursuant to §§ 73.3571, 73.3572, 73.3573, or 73.3578.

(1) * * *

(d) * * * * * * * *

(3) An applicant who files for modification, assignment or transfer of a broadcast station license (except for International broadcast, low power TV, TV translator, FM translator, and FM booster stations) shall give notice of the filing in a newspaper as described in paragraph (c) above, and also broadcast the same notice over the station as follows:

(i) * * *

* * * * *

(g) An applicant who files an application or amendment thereto for a low power TV, TV translator, FM translator, or FM booster station must give notice of this filing in a daily, weekly, or biweekly newspaper of general circulation in the community or area to be served. The filing notice will be given immediately following the tendering for filing of the application or amendment or immediately following notification to the applicant by the FCC that public notice is required pursuant to §§ 73.3571, 73.3572, 73.3573, or 73.3578.

(1) * * *

* * * * *

16. Section 73.3594 is amended by revising paragraphs (a) [introduction, (b) [introduction], (f) [introduction] and (f)(2) to read as follows:

§73.3594 Local public notice of designation for hearing.

(a) Except as otherwise provided in paragraph (c) of this Section when an application subject to the provisions of §73.3580 (except for applications for International broadcast, low power TV, TV translator, FM translator, and FM booster stations) is designated for hearing, the applicant shall give notice of such designation as follows: Notice shall be given at least twice a week, for 2 consecutive weeks within the 3-week period immediately following release of the FCC's order, specifying the time and place of the commencement of the hearing, in a daily newspaper of general circulation published in the community in which the station is located or proposed to be located.

(1) * * *

* * * * *

(b) When an application which is subject to the provisions of §73.3580 and which seeks modification, assignment, transfer, or renewal of an operating broadcast station is designated for hearing (except for applications for an International broadcast, low power TV, TV translator, FM translator, or FM booster stations), the applicant shall, in addition to giving notice of such designation as provided in paragraph (a) of this Section, cause the same notice to be broadcast over that station at least once daily on 4 days in the second week immediately following the release of the FCC's order, specifying the time and place of the commencement of the hearing. In the case of both commercial and noncommercial TV broadcast stations such notice shall be broadcast orally with the camera focused on the announcer. The notice required by this paragraph shall be broadcast during the following periods:

(1) * * *

* * * * *

(f) When an application for a low power TV, TV translator, FM translator, or FM booster station which is subject to the provisions of §73.3580 is designated for hearing, the applicant shall give notice of such designation as follows: Notice shall be given at least once during the 2-week period immediately

following release of the FCC's order, specifying the time and place of the commencement of the hearing in a daily, weekly or biweekly publication having general circulation in the community or area to be served. However, if there is no publication of general circulation in the community or area to be served, the applicant shall determine an appropriate means of providing the rive notice of such designation as follows: Notice shall be given at least once during the 2-week period immediately following release of the FCC's order, specifying the time and place of the commencement of the hearing in a daily, weekly or biweekly publication having general circulation in the community or area to be served. However, if there is no publication of general circulation in the community or area to be served, the applicant shall determine an appropriate means of providing the required notice to the general public, such as posting in the local post office or other public place. The notice shall state:

(1) * * *

(2) The call letters, if any, of the station or stations involved, the output channel or channels of such stations, and, for any rebroadcasting, the call letters, channel and location of the station or stations being or proposed to be rebroadcast.

* * * * * *

17. Section 73.3597 is amended by revising paragraphs (a)(1) and (e)(1)(i) to read as follows:

§73.3597 Procedures on transfer and assignment applications.

(a) * * *

(1) The application involves a low power TV, TV translator, FM translator, or FM booster station only;

* * * * * *

(e) * * *

(1) * * *

(i) "Unbuilt station" refers to an AM, FM, or TV broadcast station or a low power TV station for which a construction permit is outstanding, and, regardless of the stage of physical completion, for which program tests have not commencedor, if required, been authorized.

* * * * * *

18. Section 73.3598 is amended by revising paragraph (b) to read as follows:

§73.3598 Period of construction.

* * * * * *

(b) Other broadcast, auxiliary and Instructional TV Fixed Stations. Each original permit for the construction of a new AM, FM, or International broadcast; low power TV; TV translator, FM translator; FM booster; broadcast auxiliary; or Instructional TV Fixed station, or to make changes in such existing stations, shall specify a period of 12 months within which construction shall be completed and application for license be filed.

19. Section 73.3613 is amended by revising paragraph (a)(1) to read as follows:

§73.3613 Filing of contracts.

* * * * * *

(a) * * *

(1) All network affiliation contracts, agreements, or understandings between a TV broadcast or low power TV station and a national, regional, or other network.

* * * * * *

20. Section 74.15 is amended by revising paragraph (d) [introduction] to read as follows:

§74.15 License period.

* * * * * *

(d) Initial licenses for low power TV, TV translator, and FM translator stations will ordinarily be issued for a period running until the date specified in this Section for the State or territory in which the station is located or, if issued after such date, to the next renewal date determined in accordance with this Section. When renewed, low power TV and TV translator station licenses will ordinarily be renewed for 5 years and FM translator station licenses be renewed for 7 years. However, if the FCC finds that the public interest, convenience, or necessity will be served, it may issue either an initial license or a renewal thereof for a lesser term. The time of expiration of all licenses will be 3.a.m., local time, on the following dates, and, thereafter, at 5-year intervals for low power TV and TV translator stations and at 7-year intervals for FM translator stations:

(1) * * *

* * * * * *

21. Section 74.432 is amended by revising paragraph (a) to read as follows:

§74.432 Licensing requirements and procedures.

(a) A license for a broadcast remote pickup station or system will be issued only to the licensee of an AM, FM, noncommercial educational FM, TV, or International broadcast station; low power TV station; or to an elgible network entity. To be eligible, a network entity must provide a program service for simultaneous transmission by 10 or more stations through circuit facilities available for program distribution to each affiliated station at least 12 hours of each day.

* * * * * *

22. Section 74.601 in its entirety to read as follows:

§74.601 Classes of TV broadcast auxiliary stations.

(a) TV pickup station. A land mobile station used for the transmission of television program material and related communications from the scenes of events occurring at points removed from the station studios to TV broadcast and low power TV stations.

(b) TV STL station (studio-transmitter link). A fixed station used for the transmission of television program material and related communications from the studio to the transmitter of a TV broadcast or low power TV station.

(c) TV intercity relay station. A fixed station used for intercity transmission of television program material and related communications for use by TV broadcast and low power TV stations.

(d) TV translator relay station. A fixed station used for relaying programs and signals of TV broadcast stations to LPTV, TV translator, and other communications facilities that the FCC may authorize.

(e) TV broadcast licensee. Licensees and permittees of both TV broadcast and low power TV stations, unless specifically otherwise indicated.

23. Section 74.602 is amended by revising paragraph (h) and deleting reserved paragraph (i) as follows:

§74.602 Frequency assignment.

* * * * * *

(h) TV auxiliary stations licensed to low power TV stations and translator relay stations will be assigned on a secondary basis, i.e., subject to the condition that no harmful interference is caused to other TV auxiliary stations assigned to TV broadcast stations, or to community antenna relay stations (CARS) operating between 12,700 and 13,200 MHz. Auxiliary stations licensed to low power TV stations and translator relay stations must accept any interference caused by stations having primary use of TV auxiliary frequencies.

24. The undesignated title of Subpart G of Part 74 is amended to read as follows:

SUBPART G - LOW POWER TV AND TV TRANSLATOR STATIONS.

25. Section 74.701 is amended by adding new paragraphs (f) and (g) to read as follows:

§74.701 Definitions.

(f) Low power TV station. A station authorized under the provisions of this Subpart that may retransmit the programs and signals of a TV broadcast station and that may originate programming in any amount greater than 30 second per hour and/or operates a subscription service. (See §73.641 of Part 73.)

(g) Program origination. For purposes of this Part, program origination shall be any transmissions other than the simultaneous retransmission of the programs and signals of a TV broadcast station. Origination shall include locally generated television program signals and program signals obtained via video recordings (tapes and discs), microwave, common carrier circuits, or other sources.

26. Section 74.702 is revised in its entirety to read as follows:

§74.702 Channel assignments.

(a) An applicant for a new low power TV or TV translator station or for changes in the facilities of an authorized station shall endeavor to select a channel on which its operation is not likely to cause interference. The applications must be specific with regard to the channel requested. Only one channel will be assigned to each station.

(1) Any one of the 12 standard VHF Channels (2 to 13, inclusive) may be assigned to a VHF low power TV or TV translator station. Channels 5 and 6 are allocated for nonbroadcast use in Alaska, and will not be assigned to a VHF low power TV or TV translator station in that State.

(2) Any one of the UHF Channels from 14 to 69, inclusive, may be assigned to a UHF low power TV or TV translator station. In accordance with §73.603(c) of Part 73, Channel 37 will not be assigned to such stations.

(3) Application for new low power TV or TV translator stations or for changes in existing stations, specifying operation on output Channels from 70 through 83 will not be accepted for filing. License renewals for TV translator stations operating on those channels will be granted only on a secondary basis to land mobile radio operations.

(b) Changes in the TV Table of Assignments (§73.606(b) of Part 73), authorizations to construct new TV broadcast stations or to change facilities of existing ones, may be made without regard to existing or proposed low power TV or TV translator stations. Where such a change results in a low power TV or TV

translator station causing actual interference to reception of the TV broadcast station, the licensee of the low power TV or TV translator station shall eliminate the interference or file an application for a change in channel assignment.

27. Section 74.703 is revised in its entirety to read as follows:

§74.703 Interference.

(a) An application for a new low power TV or TV translator station or for changes in the facilities of an authorized station will not be granted when it is apparent that interference will be caused. The licensee of a new low power TV or TV translator station shall protect existing low power TV and TV translator stations from interference within the protected contour defined in §74.707 of this Part.

(b) It shall be the responsibility of the licensee of a low power TV or TV translator station to correct at its expense any condition of interference to the direct reception of the signals of a TV broadcast station operating on the same channel as that used by the low power TV or TV translator station or on an adjacent channel, which occurs as the result of the operation of the low power TV or TV translator station. Interference will be considered to occur whenever reception of a regularly used signal is impaired by the signals radiated by the low power TV or TV translator station, regardless of the quality of such reception or the strength of the signal so used. If the interference cannot be promptly eliminated by the application of suitable techniques, operation of the offending low power TV or TV translator stations shall be suspended and shall not be resumed until the interference has been eliminated. If the complainant refuses to permit the low power TV or TV translator licensee to apply remedial techniques that demonstrably will eliminate the interference without impairment of the original reception, the licensee of the low power TV or TV translator station is absolved of further responsibility.

(c) It shall be the responsibility of the licensee of a low power TV or TV translator station to correct any condition of interference which results from the radiation of radio frequency energy outside its assigned channel. Upon notice by the FCC to the station licensee or operator that such interference is caused by the spurious emissions of the station, operation of the station shall be immediately suspended and not resumed until the interference has been eliminated. However, short test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures.

(d) When a low power TV or TV translator station causes interference to a CATV system by radiations within its assigned channel at the cable headend or on the output channel of any system converter located at a receiver, the earlier user, whether cable system or low power TV or TV translator station, will be given priority on the channel, and the later user will be responsible for correction of the interference.

(e) Low power TV and TV translator stations are being authorized on a secondary basis to existing land mobile uses and must correct whatever interference they cause to land mobile stations or cease operation.

(f) In each instance where suspension of operation is required, the licensee shall submit a full report to the FCC in Washington, D.C., after operation is resumed, containing details of the nature of the interference, the source of the interfering signals, and the remedial steps taken to eliminate the interference.

28. New Section 74.705 is added to read as follows:

§74.705 TV broadcast station protection.

(a) The TV broadcast station protected contour shall be its Grade B contour as defined in §73.683 of Part 73.

(b)(1) An application to construct a new low power TV or TV translator station or change the facilities of an existing station will not be accepted if it specifies a site which is within the protected contour of a co-channel or first adjacent channel TV broadcast station.

(2) Due to the frequency spacing which exists between TV Channels 4 and 5, between Channels 6 and 7, and between Channels 13 and 14, adjacent channel protection standards shall not be applicable to these pairs of channels. (See §73.603(a) of Part 73.)

(3) A UHF low power TV or TV translator construction permit application will not be accepted if it specifies a site within the UHF TV broadcast station's protected contour and proposes operation on a channel either 14 or 15 channels above the channel in use by the TV broadcast station.

(4) A UHF low power TV or TV translator construction permit application will not be accepted if it specifies a site less than 100 kilometers from the transmitter site of a UHF TV broadcast station operating on a channel which is the seventh channel above the requested channel.

(5) A UHF low power TV or TV translator construction permit application will not be accepted if it specifies a site less than 32 kilometers from the transmitter site of a UHF TV broadcast station operating on a channel which is the second, third, fourth, or fifth channel above or below the requested channel.

(c) The low power TV or TV translator station field strength is calculated from the proposed effective radiated power (ERP) and the antenna height above average terrain (HAAT) in pertinent directions.

(1) For co-channel protection, the field strength is calculated using Figure 9a, 10a, or 10c of §73.699 (F(50,10) charts) of Part 73.

(2) For low power TV or TV translator applications that do not specify the same channel as the TV broadcast station to be protected, the field strength is calculated using Figure 9, 10, or 10b of §73.699 (F(50,50) charts) of Part 73.

(d) A low power TV or TV translator station application will not be accepted if the ratio in dB of its field strength to that of the TV broadcast station at its protected contour fails to meet the following:

(1) -45 dB for co-channel operations without offset carrier frequency operation or -28 dB for offset carrier frequency operation. An application requesting offset carrier frequency operation must include the following:

(i) A requested offset designation (zero, plus, or minus) identifying the proposed direction of the 10 kHz offset from the standard carrier frequencies of the requested channel. If the offset designation is not different from that of the station being protected, the -45 dB ratio must be used.

(ii) A description of the means by which the low power TV or TV translator station's frequencies will be maintained within the tolerances specified in §74.761 of this Part for offset operation.

(2) 6 dB when the protected TV broadcast station operates on a VHF channel that is one channel above the requested channel.

(3) 12 dB when the protected TV broadcast station operates on a VHF channel that is one channel below the requested channel.

(4) 15 dB when the protected TV broadcast station operates on a UHF channel that is one channel above or below the requested channel.

(5) 23 dB when the protected TV broadcast station operates on a UHF channel that is fourteen channels below the requested channel.

(6) 6 dB when the protected TV broadcast station operates a UHF channel that is fifteen channels below the requested channel.

29. New Section 74.707 is added to read as follows:

§74.707 Low power TV and TV translator station protection.

(a)(1) A low power TV or TV translator will be protected from interference from other low power TV and TV translator stations within the following predicted contours:

(i) 62 dBu for stations on Channels 2 through 6;

(ii) 68 dBu for stations on Channels 7 through 13; and

(iii) 74 dBu for stations on Channels 14 through 76.

(2) The low power TV or TV translator station protected contour is calculated from the authorized effective radiated power and antenna height above average terrain, using Figure 9, 10, or 10b of §73.699 (F(50,50) charts) of Part 73.

(b)(1) An application to construct a new low power TV or TV translator station or change the facilities of an existing station will not be accepted if it specifies a site which is within the protected contour of a co-channel or first adjacent channel low power TV or TV translator station.

(2) Due to the frequency spacing which exists between TV Channels 4 and 5, between Channels 6 and 7, and between Channels 13 and 14, adjacent channel protection standards shall not be applicable to these pairs of channels. (See §73.603(a) of Part 73.)

(3) A UHF low power TV or TV translator construction permit application will not be accepted if it specifies a site within the UHF low power TV or TV translator station's protected contour and proposes operation on a channel either 7 channels below or 14 or 15 channels above the channel in use by the low power TV or TV translator station.

(c) The low power TV or TV translator construction permit application field strength is calculated from the proposed effective radiated power (ERP) and the antenna height above average terrain (HAAT) in pertinent directions.

(1) For co-channel protection, the field strength is calculated using Figure 9a, 10a, or 10c of §73.699 (F(50,10) charts) of Part 73.

(2) For low power TV or TV translator applications that do not specify the same channel as the low power TV or TV translator station to be protected, the field strength is calculated using Figure 9, 10, or 10b of §73.699 (F(50,50) charts) of Part 73.

(d) A low power TV or TV translator station application will not be accepted if the ratio in dB of its field strength to that of the authorized low power TV or TV translator station at its protected contour fails to meet the following:

(1) -45 dB for co-channel operations without offset carrier frequency operation or -28 dB for offset carrier frequency operation. An application requesting offset carrier frequency operation must include the following:

(i) A requested offset designation (zero, plus, or minus) identifying the proposed direction of the 10 kHz offset from the standard carrier frequencies of the requested channel. If the offset designation is not different from that of the station being protected, or if the station being protected is not maintaining its frequencies within the tolerance specified in §74.761 of this Part for offset operation, the -45 dB ratio must be used.

(ii) A description of the means by which the low power TV or TV translator station's frequencies will be maintained within the tolerances specified in §74.761 of this Part for offset operation.

(2) 6 dB when the protected low power TV or TV translator station operates on a VHF channel that is one channel above the requested channel.

(3) 12 dB when the protected low power TV or TV translator station operates on a VHF channel that is one channel below the requested channel.

(4) 15 dB when the protected low power TV or TV translator station operates on a UHF channel that is one channel above or below the requested channel.

(5) 0 dB when the protected low power TV or TV translator station operates on a UHF channel that is seven channels above the requested channel.

(6) 23 dB when the protected low power TV or TV translator station operates on a UHF channel that is fourteen channels below the requested channel.

(7) 6 dB when the protected low power TV or TV translator station operates a UHF channel that is fifteen channels below the requested channel.

30. New Section 74.709 is added to read as follows:

§74.709 Land mobile station protection.

(a) Stations in the Land Mobile Radio Service, using the following channels in the indicated cities will be protected from interference caused by low power TV or TV translator stations, and low power TV and TV translator stations must accept any interference from stations in the land mobile service operating on the following channels:

CITY	CHANNELS	COORDINATES (LAT/LONG)
Boston, MA	14, 16	42-21-24/071-03-24
Chicago, IL	14, 15	41-52-28/087-38-22
Cleveland, OH	14, 15	41-29-51/081-41-50
Dallas, TX	16	32-47-09/096-47-37
Detroit, MI	15, 16	42-19-48/083-02-57
Houston, TX	17	29-45-26/095-21-37
Los Angeles, CA	14, 20	34-03-15/118-14-28
Miami, FL	14	25-46-37/080-11-32
New York, NY	14, 15	40-45-06/073-59-39
Philadelphia, PA	19, 20	39-56-58/075-09-21
Pittsburgh, PA	14, 18	40-26-19/080-00-00
San Francisco, CA	16, 17	37-46-39/122-24-40
Washington, DC	17, 18	38-53-51/077-00-33

(b) The protected contours for the land mobile radio service are 130 kilometers from the above coordinates, except where limited by the following:

(1) If the land mobile channel is the same as the channel in the following list, the land mobile protected contour excludes the area within 145 kilometers of the corresponding coordinates from list below. Except if the land mobile channel is 15 in New York or Cleveland or 16 in Detroit, the land mobile protected contour excludes the area within 95 kilometers of the corresponding coordinates from the list below.

(2) If the land mobile channel is one channel above or below the channel in the following list, the land mobile protected contour excludes the area within 95 kilometers of the corresponding coordinates from the list below.

CITY	CHANNEL	COORDINATES (LAT/LONG)
San Diego, CA	15	32-41-48/116-56-10
Waterbury, CT	20	41-31-02/073-01-00
Washington, DC	14	38-57-17/077-00-17
Washington, DC	20	38-57-49/077-06-18
Champaign, IL	15	40-04-11/087-54-45
Jacksonville, IL	14	39-45-52/090-30-29
Ft. Wayne, IN	15	41-05-35/085-10-42
South Bend, IN	16	41-36-20/086-12-44
Salisbury, MD	16	38-24-15/075-34-45
Mt. Pleasant, MI	14	43-34-24/084-46-21
Hanover, NH	15	43-42-30/072-09-16
Canton, OH	17	40-51-04/081-16-37
Cleveland, OH	19	41-21-19/081-44-24
Oxford, OH	14	39-30-26/084-44-09
Zanesville, OH	18	39-55-42/081-59-06
Elmira-Corning, NY	18	42-06-20/076-52-17
Harrisburg, PA	21	40-20-44/076-52-09
Johnstown, PA	19	40-19-47/078-53-45
Lancaster, PA	15	40-15-45/076-27-49
Philadelphia, PA	17	40-02-30/075-14-24
Pittsburgh, PA	16	40-26-46/079-57-51
Scranton, PA	16	41-10-58/075-52-21
Parkersburg, WV	15	39-20-50/081-33-56
Madison, WI	15	43-03-01/089-29-15

(c) A low power TV or TV translator station application will not be accepted if it specifies a site that is within the protected contour of a co-channel or first adjacent channel land mobile assignment.

(d) The low power TV or TV translator station field strength is calculated from the proposed effective radiated power (ERP) and the antenna height above average terrain (HAAT) in pertinent directions.

(1) The field strength is calculated using Figure 10c of §73.699 (F(50,10) charts) of Part 73.

(2) A low power TV or TV translator station application will not be accepted if it specifies the same channel as one of the land mobile assignments and its field strength at the land mobile protected contour exceeds 52 dBu.

(3) A low power TV or TV translator station application will not be accepted if it specifies a channel that is one channel above or below one of the land mobile assignments and its field strength at the land mobile protected contour exceeds 76 dBu.

(e) In order to protect stations in the Offshore Radio Telecommunications Service, a low power TV or TV translator station construction permit application specifying operation on Channel 17 will not be accepted if it specifies a latitude south of the line 31° 30' North, and between longitudes 86° 30' West and 95° 30' West. An application specifying operation on either Channel 16 or Channel 18 will not be accepted if it specifies a latitude south of the line 31° 00' North and between longitudes 87° 00' West and 95° 00' West.

31. Section 74.731 is amended by revising paragraphs (g), (h), (i), and (j) to read as follows:

§74.731 Purpose and permissible service.

* * * * *

(g) Low power TV stations may operate under the following modes of service:

(1) As a TV translator station, subject to the requirements of this Part;

(2) For origination of programming and commercial matter as defined in §74.701(f) of this Part;

(3) For the transmission of subscription television broadcast (STV) programs, intended to be received in intelligible form by members of the public for a fee or charge, subject to the provisions of §§73.642(e) and (f)(3), and 74.644.

(h) A low power TV station may not be operated solely for the purpose of relaying signals to one or more fixed receiving points for retransmission, distribution or relaying.

(i) Low power TV stations are subject to no minimum required hours of operation and may operate in any of the 3 modes described in paragraph (g) above for any number of hours.

(j) An applicant for a 1 kW UHF TV translator station to operate on a channel assigned to a TV broadcast station which is not in operation, shall notify the licensee or permitee of the TV broadcast station, in writing, of the filing of the application and shall certify to the FCC that such notice has been given.

32. Section 74.732 is revised in its entirety to read as follows:

§74.732 Eligibility and licensing requirements.

(a) Subject to the restrictions described in paragraph (e) of this Section, a license for a low power TV or TV translator station may be issued to any qualified individual, organized group of individuals, broadcast station licensee, or local civil governmental body.

(b) More than one low power TV or TV translator station may be licensed to the same applicant whether or not such stations serve substantially the same area. Low power TV and TV translator stations are not counted for purposes of §73.636 of Part 73, concerning multiple ownership.

(c) Only one channel will be assigned to each low power TV or TV translator station. Additional low power or translator stations may be authorized to provide additional reception. A separate application is required for each station and each application must be complete in all respects.

(d) The FCC will not act on applications for new low power TV or TV translator stations or for changes in facilities of existing stations when such changes will result in an increase in signal range in any horizontal direction until at least 30 days have elapsed since the date on which "Public Notice" is given by the FCC of acceptance for filing of such application, in order to afford interested parties opportunity to comment and afford opportunity for competing applications to be filed.

(e) A proposal to change the primary TV station being retransmitted or an application of a licensed translator station to include low power TV station operation, i.e., program origination or subscription service will be subject only to informal objections.

(f) Applications for transfer of ownership or control of a low power TV or TV translator station will be subject to petitions to deny.

33. Section 74.734 is revised in its entirety to read as follows:

§74.734 Attended and unattended operation.

(a) In all circumstances other than during local origination (see §74.701(g)), low power TV and TV translator stations may be operated without a licensed radio operator in attendance if the following requirements are met:

(1) If the transmitter site cannot be promptly reached at all hours and in all seasons, means shall be provided so that the transmitting apparatus can be turned on and off at will from a point that readily is accessible at all hours and in all seasons.

(2) The transmitter also shall be equipped with suitable automatic circuits that will place it in a nonradiating condition in the absence of a signal on the input channel or circuit.

(3) The transmitting and the ON/OFF control, if at a location other than the transmitter site, shall be adequately protected against tampering by unauthorized persons.

(4) The FCC shall be supplied with the name, address, and telephone number of a person or persons who may be called to secure suspension of operation of the transmitter promptly should such action be deemed necessary by the FCC. Such information shall be kept current by the licensee.

(5) In cases where the antenna and supporting structure are considered to be a hazard to air navigation and are required to be painted and lighted under the provisions of Part 17 of the Rules, the licensee shall made suitable arrangements for the daily observations, when required, and lighting equipment inspections required by §§17.37 and 17.38 of the FCC rules.

(6) In the case of a low power TV or TV translator station using modulating equipment, observation of the transmitted program signal on a suitable receiver shall be made for at least 10 continuous minutes each day by a person designated by the licensee, who shall institute measures sufficient to assure prompt correction of any condition of improper operation that is observed.

(b) An application for authority to construct a new low power TV station (when rebroadcasting the programs of another station) or TV translator station or to make changes in the facilities of an authorized station, and that proposes unattended operation, shall include an adequate showing as to the manner of compliance with this Section.

34. Section 74.735 is amended by revising paragraphs (a), (b) [introduction only], (c), (d), and (e); and adding new paragraph (f) to read as follows:

§74.735 Power limitation.

(a) The power output of the final radiofrequency amplifier of a VHF low power TV or TV translator station, except as provided for in paragraphs (d) and (f) of this Section shall not exceed 0.01 kW peak visual power. A UHF station shall be limited to a maximum of 1 kW peak visual power, except as provided for in paragraph (f) of this Section. In no event shall the transmitting apparatus be operated with a power output in excess of the manufacturer's rating.

(b) In individual cases, the FCC may authorize the use of more than one final radio frequency amplifier at a single VHF or UHF station under the following conditions:

(1) * * *

* * * * *

(c) No limit is placed upon the effective radiated power that may be obtained by the use of horizontally or vertically polarized directive transmitting antennas, provided the provisions of §§74.705, 74.707, and 74.709 are met.

(d) VHF low power TV and TV translator stations authorized on channels listed in the TV table of allocations (see §73.606(b) of Part 73) will be authorized a maximum output power of the radio frequency amplifier of 0.1 kW peak visual power.

(e) The power output of the final radio amplifier of a VHF or UHF transmitter may be fed into a single transmitting antenna, or may be divided between two or more transmitting antennas or antenna arrays in any manner found useful or desirable by the licensee.

(f) A station proposing to use antenna(s) designed for circularly polarized radiation may be authorized to use a type accepted transmitter or parallel connected of two type accepted translator amplifiers to operate at peak visual output power of twice that specified under the maximum transmitter power limitations given above in this Section.

35. Section 74.736 is amended by revising paragraph (a) to read as follows:

§74.736 Emissions and bandwidth.

(a) The license of a low power TV or TV translator station station authorizes the transmissions of the visual signal by amplitude modulation (A5) and the accompaning aural signal by frequency modulation (F3).

* * * * *

36. Section 74.737 is revised in its entirety to read as follows:

§74.737 Antenna location.

(a) An applicant for a new low power TV or TV translator station or for a change in the facilites of an authorized station shall endeavor to select a site that will provide a line-of-sight transmission path to the entire area intended to be served and at which there is available a suitable signal from the primary station, if any, that will be retransmitted.

(b) The transmitting antenna should be placed above growing vegitation and trees lying in the direction of the area intended to be served, to minimize the possibility of signal absorption by foliage.

(c) A site within 8 kilometers of the area intended to be served is to be preferred if the conditions in paragraph (a) of this Section can be met.

(d) Consideration should be given to the accessibility of the site at all seasons of the year and to the availability of facilities for the maintenance and operation of the transmitting equipment.

(e) The transmitting antenna should be located as near as is practical to the transmitter to avoid the use of long transmission lines and the associated power losses.

(f) Consideration should be given to the existence of strong radio frequency fields from other transmitters at the site of the transmitting equipment and the possibility that such fields may result in the retransmissions of signals originating on frequencies other than that of the primary station being rebroadcast.

37. Section 74.750 is amended by revising the headnote and paragraphs (a), (b), (c) [introduction], (c)(3)(iii), (c)(7), (d) [introduction], (d)(1), (e)(1), (e)(2), (e)(3), and (g) to read as follows:

§74.750 Transmission system f cilities.

* * * * *

(d) Low power TV and TV translator transmitting equipment using a modulation process for either program origination or rebroadcasting must meet the following requirements:

(1) The equipment shall meet the requiirements of paragraphs (1)(1), (a)(2), (a)(3), (b)(1), and (b)(7) of §73.687.

* * * * *

(e) * * *

(1) Any manufacturer of apparatus intended for use at low power TV or TV translator stations may request type acceptance by following the procedures set for in Part 2, Subpart J, of this Chapter. Equipment found to be acceptable by the FCC will be listed in the "Radio Equipment List" published by the FCC. These lists are available for inspection at the FCC headquarters in Washington, D.C. or at any of its field offices.

(2) Low power TV and TV translator transmitting apparatus that has been type accepted by the FCC will normally be authorized without additional measurements from the applicant or licensee.

(3) Applications for type acceptance of modulators to be used with exisiting type accepted TV translator apparatus must include the specifications electrical and mechanical interconnecting requirements for the apparatus with which it is designed to be used.

* * * * *

(g) Low Power TV or TV translator stations installing new type accepted transmitting apparatus incorporating modulating equipment need not make equipment performance measurements and shall so indicate on the station license application. Stations adding new or replacing modulating equipment to existing low power TV or TV translator transmitting apparatus must have an operator holding a General Radiotelephone Operator License examine the transmitting system after installation. This operator must certify in the application for the station license that the transmitting equipment meets the requirement of paragraph (d)(1) of this Section. A report of the methods, measurements, and results must be kept in the station records. However, stations using modulating equipment solely for the limited local origination of signals permitted by §74.731 need not comply with the requirements of this paragraph.

The following rules are applicable to programs originated by low power TV stations:

(a) §73.658, "Affiliation agreements and network program practices; territorial exclusivity in non-network program arrangements."

(b) §73.1202, "Station identification."

(c) §73.1205, "Fraudulent billing practices."

(d) §73.1206, "Broadcast of telephone conversations."

(e) §73.1207, "Rebroadcasts."

(f) §73.1208, "Broadcast of taped, filmed, or recorded material."

(g) §73.1211, "Broadcast of lottery information."

(h) §73.1212, "Sponsorship identification; list retention; related requirements."

(i) §73.1216, "Licensee-conducted contests."

(j) §73.1940, "Broadcasts by candidates for public office."

(k) §73.2080, "Equal employment opportunities."

(l) Part 73, Subpart G, "Emergency Broadcast System."

48. Section 74.783 is amended by revising the introducation of paragraph (a) and paragraph (c) and adding new paragraph (d) to read as follows:

§74.783 Station identification.

(a) Each TV translator station over 0.001 kW peak visual power (0.002 kW when using circularly polarized antennas) must transmit its station identification as follows:

(1) * * *

* * * * *

(c) A low power TV station shall comply with the station identification procedures given in §73.1201 of Part 73 when originating programming (See Section 74.701(g)). The identification procedures given in paragraphs (a) and (b) are to be used when programs of another station are being rebroadcast.

(d) Call signs for low power TV and TV translator stations will be made up of the initial letter K or W followed by the channel number assigned to the station and two additional letters. The use of the initial letter generally will follow the pattern used in the broadcast serice, i.e., stations west of the Mississippi River will be assigned an initial letter K and those east, the letter W. The two letter combinations following the channel number will be assigned in order and requests for the assignment of the particular combinations of letters will not be considered. The channel number designator for Channels 2 through 9 will be incorporated in the call sign as a 2-digit number, i.e., 02, 03,...., so as to avoid similarities with call signs assigned to amateur radio stations.

49. Section 74.784 is amended by revising paragraphs (b) and (c) and adding new paragraph (d) to read as follows:

§74.784 Rebroadcasts.

* * * * *

(b) The licensee of a low power TV or TV translator station shall not rebroadcast the programs of any other TV broadcast station or other station authorized under the provisions of this Subpart without obtaining prior consent of the station whose signals or programs are proposed to be retransmitted. The FCC shall be notified of the call letters of each station rebroadcast and the licensee of the low power TV or TV broadcast translator station shall certify that written consent has been obtained from the licensee of the station whose programs are retransmitted.

(c) A TV translator station may rebroadcast only programs and signals that are simultaneously transmitted by a TV broadcast station.

(d) The provisions of §73.1207 of Part 73 apply to low power TV stations in transmitting any material during periods of program origination obtained from the transmissions of any other type of station.

50. Section 74.832 is amended by revising paragraphs (a)(1) and (c) to read as follows:

§74.832 Licensing requirements and procedures:

(a) * * *

(1) A licensee of an AM, FM, TV, or International broadcast station or low power TV station. Low power auxiliary stations will be licensed for use with a specific broadcast or low power TV station or combination of stations licensed to the same licensee within the same community.

* * * * *

(c) Licensees of AM, FM, TV, and International broadcast stations; low power TV stations; and eligible network entities may be authorized to operate low power auxiliary stations in the frequency bands set forth in §74.802(a).

51. Section 76.501 is amended by revising paragraph (a)(2) and deleting paragraph (a)(3) in its entirety as follows:

§76.501 Cross-ownership

(a) * * *

(1) * * *

(2) A TV broadcast station whose predicted Grade B contour, computed in accordance with §73.684 of Part 73, overlaps in whole or in part the service area of such system (i.e., the area within which the system is serving subscribers).

(3) [Deleted.]

52. Section 76.605 is amended by revising paragraph (a)(9)(iii) to read as follows:

§76.605 Technical standards.

(a) * * *

* * * * *

(9) * * *

* * * * *

(iii) Each signal that is first received by the cable television system by direct video feed from a TV broadcast station or a low power TV station.

* * * * *

53. Section 78.1 AMENDED;

The last sentence in Section 78.1 is revised to read as follows:

In addition CARS stations may be used to transmit television and related audio signals to TV translator and low power TV stations.

54. Section 78.11 AMENDED.

The first sentence of Section 78.11, paragraph (a) is revised to read as follows:

CARS stations are authorized to relay TV broadcast and low power TV and related audio signals, the signals of AM and FM broadcast stations, signals of instructional TV fixed stations, and cablecasting intended for use by one or more cable television systems.

APPENDIX B

Federal Communications Commission
Washington, D.C., 20554

Instructions for FCC 346
Application For Construction Permit For Auxiliary Broadcast Station

(FCC Form 346 attached)

GENERAL INSTRUCTIONS

A. This FCC form is to be used to apply for authority to construct a new auxiliary broadcast station, or to make changes in the existing facilities of such a station. It consists of the following sections:

I. GENERAL INFORMATION
II. LEGAL QUALIFICATIONS
III. FINANCIAL QUALIFICATIONS
IV. PROGRAM SERVICE STATEMENT
V. ENGINEERING DATA AND ANTENNA AND SITE INFORMATION
VI. EQUAL EMPLOYMENT OPPORTUNITY PROGRAM
VII. CERTIFICATION

An applicant for a change in facilities need not file Sections II, III, IV and VI.

B. Prepare and submit three copies of this form and all exhibits to: The Secretary
Federal Communications Commission
Washington, D.C. 20554

C. Many references to FCC Rules (47 CFR) are made in this application form. Before filling it out, the applicant should have on hand and be familiar with current broadcast rules in:

(1) Volume I: Parts 0 ("Commission Organization"), 1 ("Practice and Procedure"), and 17 ("Construction Marking and Lighting of Antenna Structures").

(2) Volume III: Part 73 ("Radio Broadcast Services").

FCC Rules may be obtained through the Government Printing Office, Washington, D.C. 20402. Orders should be sent directly to the Government Printing Office (not through the FCC). The printed rules are sold on a subscription basis, which entitles the purchaser to receive subsequent amendments to the rule part purchased until an overall revised edition is printed. You may telephone the Government Printing Office at (202) 783-3238.

D. Public Notice Requirement:

(1) Section 73.3580 of the Commission's Rules requires that applicants for construction permits for new broadcast stations and major changes in existing facilities (as defined in Section 73.3572(a)(1) or 73.3573(a)(1) of the Rules) give local notice in a newspaper of general circulation in the community to which the station is licensed. This publication requirement also applies with respect to major amendments thereto as defined in Sections 73.3572(b) and 73.3573(b) of the Rules.

(2) Completion of publication may occur within 30 days before or after tendering of the application. Compliance or intent to comply with the public notice requirement must be certified in Section VI of this application. The information that must be contained in the notice of filing is described in Paragraph (f) of Section 73.3580 of the Rules. Proof of publication need not be filed with this application.

E. A copy of this completed application and all related documents shall be made available for inspection by the public, pursuant to Section 73.3526 of the FCC Rules.

F. Replies to questions in this form and the applicant's statements constitute representations on which the FCC will rely in considering the application. Thus, time and care should be devoted to all replies, which should reflect accurately the applicant's responsible consideration of the questions asked. Include all information called for by this application. If any portions of the application are not applicable, so state. Defective or incomplete applications will be returned without consideration. Furthermore, inadvertently accepted applications are also subject to dismissal.

38. Section 74.751 is amended by revising paragraphs (b)(1), (b)(2), (b)(6), and (c), and adding new paragraph (d) to read as follows:

§74.751 Equipment changes.

(b) * * *

(1) Replacement of the transmitter as a whole, except replacement with a transmitter of identical power rating which has been type accepted by the FCC for use by low power TV and TV translator stations, or any change which could result in a change in the electrical characteristics or performance of the station.

(a) Application for new low power TV and TV translator ions and for increased transmitter power for previously orized facilities will not be accepted unless the transmitter isted in the FCC's list of equipment type accepted for using under the provisions of this Subpart.

(2) Any change in the transmitting antenna system, including the direction of radiation, directive antenna pattern, antenna gain, transmission line loss characteristics, or height of antenna center of radiation.

(6) Any changes in the location of the transmitter except within the same building or upon the same pole or tower.

(c) Other equipment changes not specifically referred to in paragraph (a) or (b) above many be made at the discretion of the licensee, provided that the Engineer in Charge of the Radio District in which the low power TV or TV translator station is located and the FCC in Washington, D.C., are notified in writing upon completion of such changes, and that the changes are appropriately reflected in the next application for renewal of the station license.

(d) Upon installation of new or replacement transmitting equipment for which prior FCC authority is not required under the provisions of this Section, the licensee must place in the station records a certification that the new installation complies in all respects with the technical requirements of this part and the station authorization.

39. Section 74.761 is amended by revising the introduction and adding new paragraph (d) to read as follows:

§74.761 Frequency tolerance.

The licensee of a low power TV or TV translator station shall maintain the transmitter output frequencies as set forth below. The frequency tolerance of stations using direct frequency conversion of a received signal and not engaging in offset carrier operation as set forth in paragraph (d) of this Section will be referenced to the authorized plus or minus 10 kHz offset, if any, of the primary station.

(iii) plus or minus 1 kHz of its rated frequency for transmitters to be used at stations employing offset carrier frequency operation.

(5) The apparatus must be equipped with automatic controls that will place it in a non-radiating condition when no signal is being received on the input channel, either due to absence of a transmitted signal or failure of the receiving portion of the facilities used for rebroadcasting the signal of another station. The automatic control may include a time delay feature to prevent interruptions caused by fading or other momentary failures of the incoming signal.

(6) * * *

(7) The transmitters of over 0.001 kW peak visual power (0.002 kW when circularly polarized antennas are used) shall be equipped with an automatic keying device that will transmit the call sign of the station, in International Morse Code, at lease once each hour during the time the station is in operation when operating in the translator mode retransmitting the programming of a TV broadcast station. However, the identification by Morse Code is not required if the licensee of the low power TV or TV translator station has an agreement with the TV broadcast station being rebroadcast to transmit the aurally or visually the low power TV or TV translator station call as provided for in §74.783. Transmission of the call sign can be accomplished by:

(i) * * *

(b) Transmitting antennas, antennas used to receive the signals to be rebroadcast, and transmission lines are not type accepted by the FCC. External preamplifiers also may be used provided that they do not cause improper operation of the transmitting equipment, and use of such preamplifiers is not necessary to meet the provisions of paragraph (c) of this Section.

(c) The following requirements must be met before low power TV and TV translator transmitters will be type accepted by the FCC:

(1) * * *

(d) The visual carrier shall be maintained to within 1 kHz of the assigned channel carrier frequency if the low power TV or TV translator station is authorized with a specified offset designation in order to provide protection under the provisions of §74.705 or §74.707 of this Part.

40. Section 74.762 is amended in its entirety to read as follows:

§74.762 Frequency measurements.

(a) The licensee of a low power TV or TV translator station is not required to provide a means for measuring the operating frequencies of the transmitter. However, only equipment having the required stability will be type accepted for use by low power TV or TV translator stations.

(b) In the event that a low power TV or TV translator station is found to be operating beyond the frequency tolerance prescribed in §74.761, the licensee promptly shall suspend operation of the transmitter and shall not resume operation until transmitter has been restored to its assigned frequencies. Adjustment of the frequency determining circuits of the transmitter shall be made only by a qualified person in accordance with §74.750(g).

41. Section 74.763 is revised by amending paragraphs (a) and (c) to read as follows:

§74.763 Time of operation.

(a) A low power TV or TV translator station is not required to adhere to any regular schedule of operation. However, the licensee of a TV translator station is expected to provide service to the extent that such is within its control and to avoid unwarranted interruptions in the service provided.

(c) Failure of a low power TV or TV translator station to operate for a period of 30 days or more, except for causes beyond the control of the licensee, shall be deemed evidence of discontinuation of operation and the license of the station may be cancelled at the discretion of the FCC.

42. Section 74.764 is revised in its entirety to read as follows:

§74.764 Station inspections.

The licensee of a low power TV or TV translator station shall make the station and the records required to be kept by the rules in this Part available for inspection by representatives of the FCC.

43. Section 74.765 is amended in its entirety to read as follows:

§74.765 Posting of station and operator licenses.

(a) The station license and any other instrument of authorization or individual order concerning the construction of the station or manner of operation shall be kept in the station record file so as to be available for inspection upon request of authorized representatives of the FCC.

(b) The licenses or permits of operators employed at low power TV stations originating programs shall be posted in accordance with the provisions of §73.1230(b) of Part 73.

(c) The call sign of the station, together with the name, address, and telephone number of the licensee or local representative of the licensee, if the licensee does not reside in the community served by the station, and the name and address of the person and place where the station records are maintained, shall be displayed at the transmitter site on the structure supporting the transmitting antenna, so as to be visible to a person standing on the ground. The display shall be maintained in legible condition by the licensee.

44. Section 74.766 is amended by revising the headnote and adding new paragraph (e) to read as follows:

§74.766 Low power TV and TV translator operator requirements.

(e) An operator holding any class of FCC operator license or permit, except the Marine Operator Permit, must be on duty in charge of the transmitting apparatus of a low power TV station during all periods of program origination as defined in Section 74.701(g).

G. In accordance with Section 1.65 of the Rules, the applicant has a continuing obligation to advise the Commission, through amendments, of any substantial and significant changes in the information furnished.

SECTION I INSTRUCTIONS

A. The name of the applicant stated in Section I shall be:

(i) if a corporation, the EXACT corporate name;
(ii) if a partnership, the names of all partners, and the name under which the partnership does business;
(iii) if an association, the name of the individual(s) authorized to act on behalf of the association, and the name of the association;
(iv) if an individual applicant, the full legal name.

In all other sections of this form, the organization name alone will be sufficient for identification of the applicant.

B. In Section I use the following State abbreviations:

Alabama	AL	Kentucky	KY	Ohio	OH
Alaska	AK	Louisiana	LA	Oklahoma	OK
American Samoa	AS	Maine	ME	Oregon	OR
Arizona	AZ	Maryland	MD	Pennsylvania	PA
Arkansas	AR	Massachusetts	MA	Puerto Rico	PR
California	CA	Michigan	MI	Rhode Island	RI
Colorado	CO	Minnesota	MN	South Carolina	SC
Connecticut	CT	Mississippi	MS	South Dakota	SD
Delaware	DE	Missouri	MO	Tennessee	TN
District of Columbia	DC	Montana	MT	Texas	TX
Florida	FL	Nebraska	NB	Trust Territory Of The Pacific	
Georgia	GA	Nevada	NV	Islands	TT
Guam	GU	New Hampshire	NH	Utah	UT
Hawaii	HI	New Jersey	NJ	Vermont	VT
Idaho	ID	New Mexico	NM	Virginia	VA
Illinois	IL	New York	NY	Virgin Islands	VI
Indiana	IN	North Carolina	NC	Washington	WA
Iowa	IA	North Dakota	ND	West Virginia	WV
Kansas	KS	Northern Mariana Islands	CM	Wisconsin	WI
				Wyoming	WY

SECTION II INSTRUCTIONS

A. As used in Section II, the words "party to this application" have the following meanings:

INDIVIDUAL APPLICANT: The applicant.

PARTNERSHIP APPLICANT: All partners, including limited partners. If any partner is a corporation or other entity, the definitions set forth below will apply.

CORPORATE APPLICANT: All officers and directors, and all persons or entities who are the beneficial or record owners or have the right to vote any capital stock, membership or owner interest, or subscribers to such interests, shall be considered parties to this application. If any corporation or other legal entity owns stock in the applicant, its officers, directors and persons or entities who are the beneficial or record owners or have the right to vote any capital stock, membership or owner interest, or subscribers to such interest, of that entity shall also be considered parties to this application.

In the event the applicant has more than 50 stockholders, only officers and directors and persons or entities who are the beneficial or record owners or have the right to vote 1% or more of the capital stock, membership or owner interest, or subscribers to such interest shall be considered parties to this application. However, if such entity is a bank, insurance company, or investment company (as defined by 15 U.S.C. §80a-3) which does not invest for purposes of control, the relevant stock, membership or owner interest is 5% or more. If any corporation or other legal entity owns 1% or more of an applicant with more than 50 stockholders, its officers, directors and all persons or entities who are the beneficial or record owners or have the right to vote 1% or more of the

capital stock, membership or owner interest, or subscribers to such interest in the entity, shall also be considered parties to this application. However, if such entity is a bank, insurance company or investment company (as defined by 15 U.S.C. §80-3) which does not invest for purposes of control, the relevant stock, membership or owner interest is 5% or more.

ANY OTHER APPLICANT: All executive officers, members of the governing board and owners or subscribers to any membership or ownership interest in the applicant.

B. All applicants must comply with Section 310 of the Communications Act of 1934, as amended. Specifically, Section 310 proscribes issuance of a construction permit to an alien, the representative of an alien, a foreign government or the representative thereof, or a corporation organized under the laws of a foreign government. This proscription also applies with respect to any corporation of which any officer or director is an alien or of which more than 20% of the capital stock is owned or voted by aliens, their representatives, a foreign government or its representative, or by a corporation organized under the laws of a foreign country. This proscription could likewise apply to any corporation directly or indirectly controlled by another corporation of which (a) any officer is, (b) more than 25% of the directors are, or (c) more than 25% of the capital stock is owned and voted by aliens, their representatives, a foreign government or its representative. The Commission may also deny a construction permit to a corporation controlled by another corporation organized under the laws of a foreign country.

C. The applicant must determine the citizenship of each officer and director. It must also determine the citizenship of each shareholder or else explain how it determined the relevant percentages. For large corporations, a sample survey using a recognized statistical method is acceptable for this purpose.

SECTION III INSTRUCTIONS

A. All applicants filing Form 346 must be financially qualified to effectuate their proposals. Certain applicants (i.e., for a new station, to reactivate a silent station, or if specifically requested by the Commission) must demonstrate their financial qualifications by filing Section III. DO NOT SUBMIT Section III if the application is for changes in operating or authorized facilities.

B. An applicant for a new station must attest it has sufficient net liquid assets on hand, or committed sources of funds to construct the proposed facility and operate for three months, without revenue. As used in Section III, "net liquid assets" means the lesser amount of the net current assets or of the liquid assets shown on a party's balance sheet, with net current assets being the excess of current assets over current liabilities.

C. Documentation supporting the attestation of financial qualification need not be submitted with this application but must be available to the Commission upon request. The Commission encourages that all financial statements used in the preparation of this application be prepared in accordance with generally accepted accounting principles.

D. It is Commission policy not to grant extension of time for construction on the basis of financial inability or unwillingness to construct.

SECTION VI INSTRUCTIONS

A. Applicants seeking authority to construct a new low power television (LPTV) broadcast station, applicants seeking authority to obtain assignment of the construction permit or license of such a station, and applicants seeking authority to acquire control of an entity holding such construction permit or license are required to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, religion, national origin or sex. See Section 73.2080 of the Commission's Rules. Pursuant to these requirements, an applicant who proposes to employ five or more full-time station employees must establish a program designed to assure equal employment opportunity for women and minority groups (that is, Blacks not of Hispanic origin, Asian or Pacific Islanders, American Indians or Alaskan Natives, and Hispanics). This is submitted to the Commission as the Model EEO Program Form. If minority group representation in the available labor force is less than five percent (in the aggregate), a program for minority group members is not required. However, a program must be filed for women since they comprise a significant percentage of virtually all area labor forces. If an applicant proposes to employ less than five full-time employees, no EEO program for women or minorities need be filed.

B. Guidelines for developing an Equal Employment Opportunity program are set forth as a separate Model EEO Program.

NOTE: This five-point Model EEO Program Form is to be utilized only by applicants for new construction permits, assignees and transferees.

SECTION I GENERAL INFORMATION FILE # _____

FCC FORM 346

1. _____
Name of Applicant

_____
Mailing Address

_____
City State Zip Code Telephone No.

2. This application is for: ___ FM Translator ___ LPTV ___ TV Translator

(a) Channel number: _____

(b) Community of license: _____
City State

(c) Check one:

____ New Station

____ Major change in existing station _____
Call Letters

____ Minor change in existing station _____
Call Letters

____ Amendment to pending application _____
Application Reference Number

____ Modification of Construction Permit _____
Construction Permit File Number

[NOTE] It is not necesary to use this form to amend a previously filed application. Should you do so, however, please submit only Section I and those other portions of the form that contain the amended information.

3. (a) Is this application mutually exclusive with a renewal application?

☐ YES ☐ NO

If Yes, state: Call letters: Community of license:

(b) To the applicant's knowledge, is this application mutually exclusive with any other application(s)?

☐ YES ☐ NO

If Yes, state: Call letters: Community of license:

4(a) Is translator applicant the licensee of primary station?

_____ Yes; _____ No.

(b) If answer to 4(a) is no, has written authority been obtained from the licensee of the station whose programs are to be retransmitted?

_____ Yes; _____ No.

5. Station Identification.

Indicate how station identification will be made:

_____ FSK _____ Live or tape

_____ By primary station _____ Amplitude modulation of FM Aural Carrier

_____ Not required

6. Is type approved broadcast equipment being specified?

_____ Yes _____ No If no, please indicate date equipment submitted to FCC Lab for approval.

7. Would a Commission grant of your application be major action as defined by Section 1.1305 of the Commission's Rules?

_____ Yes If yes, submit as Exhibit No. _____ the required statement in accordance with Section 1.1311 of the Rules.

_____ No If no, explain briefly.

8. If this application is for a new FM translator, have any funds, legal or engineering services or anything else of value been furnished, directly or indirectly, by the licensee or permittee of any FM broadcast station or any person associated with such station? If the answer is "Yes", attach an explanation as Exhibit No. , identifying the source and nature of the financial support or assistance.

___ Yes ___ No

LEGAL QUALIFICATIONS

Section II
Applicant's Name: _____

1. Applicant is: ☐ an individual; ☐ a general partnership;
— ☐ a limited partnership; ☐ a corporation ☐ other

2. If the applicant is an unincorporated association or a legal entity other than an individual, partnership or corporation, describe in Exhibit No. _____ the nature of the applicant.

CITIZENSHIP AND OTHER STATUTORY REQUIREMENTS

		YES	NO
3. (a)	Is the applicant in compliance with the provisions of Section 310 of the Communications Acts of 1934, as amended, relating to interests of aliens and foreign goverments?	☐	☐
(b)	Will any funds, credit, etc., for the construction, purchase or operation of the station(s) be provided by aliens foreign entities, domestic entities controlled by aliens, or their agents?	☐	☐
	If yes, provide particulars as Exhibit No._____.		
4. (a)	Has an adverse finding been made, adverse final action taken or consent decree approved by any court or administrative body as to the applicant or any party to the application in any civil or criminal proceeding brought under the provisions of any law related to the following: any felony, antitrust, unfair competition, fraud, unfair labor practices, or discrimination?	☐	☐
(b)	Is there now pending in any court or administrative body any proceeding involving any of ther matters referred to in (a)?	☐	☐

If the answer to (a) or (b) above is yes, submit as Exhibit No._____, a full disclosure concerning the persons and matters involved, identifying the court or administrative body and the proceeding (by dates and file numbers), stating the facts upon which the proceeding was based or the nature of the offense committed, and disposition or current status of the matter.

OTHER MEDIA INTERESTS

	YES	NO
5. Does the applicant or any party to this application have any interest in or connection with the following:		
(a) an AM, FM or TV broadcast station?	____	____
(b) a broadcast application pending before the FCC?	____	____
(c) other non-broadcast media of mass communications, e.g. cable television, theatres and printed publications.	____	____
6. Has the applicant or any party to this application had any interest in:		
(a) an application which has been dismissed with prejudice by the Commission?	____	____
(b) an application which has been denied by the Commission?	____	____
(c) a broadcast station, the license which has been revoked?	____	____
(d) an application in any Commission proceeding which left unresolved character issues against the applicant?	____	____

If the answer to any of the questions in 5 is yes, state in Exhibit No. _____ the following information:

(i) Name of party having such interest;
(ii) Nature of interest or connection, giving dates;
(iii) Call letters of stations or file number of application, or docket number;
(iv) Location

MINORITY OWNERSHIP

7. Is the applicant over 50 percent minority owned? ____ Yes ___ No

If the answer is yes, state in Exhibit No. _____ for each minority owner:

(i) Name, address and percentage of ownership;

(ii) Minority group (e.g., Black not of Hispanic origin, Asian or Pacific Islander, American Indian or Alaskan native, and Hispanic).

SECTION III

FINANCIAL QUALIFICATIONS

NOTE: If this application is for a change in an operating facility, do not fill out this section.

	YES	NO
1. The applicant certifies that sufficient net liquid assets are on hand or are available from committed sources to construct and operate the requested facilities for three months without revenue.	☐	☐
2. The applicant certifies that: (a) it has a reasonable assurance of a present firm intention for each agreement to furnish capital or purchase capital stock by parties to the application, each loan by banks, financial institutions or others and each purchase of equipment on credit; (b) it can and will meet all contractual requirements as to collateral, guarantees, and capital investment; (c) it has determined that a reasonable assurance exists that all such sources (excluding banks, financial institutions and equipment manufacturers) have sufficient net liquid assets to meet these commitments.	☐	☐

SECTION IV

Program Service Statement

For LPTV (Including STV applicants) only:

1. LPTV stations must offer a broadcast program service: a non-program broadcast service will not be permitted. Therefore, submit as Exhibit No. _____, a brief description, in narrative form, of your planned programming service. STV applicants should provide a complete description of your proposed STV system including the manner in which you intend to provide decoders to the public.

ENGINEERING DATA

1. Facilities requested:

a. Output Channel No.	Transmitter Output Power (watts)	Proposed Principal Community or Communities to be served: City: State:	Primary Station (station to be rebroadcast) (Translator only) Call: Channel No. City: State: Frequency: MHz

b. Offset (Low Power TV and TV Translator Stations only)
___ No offset ___ Plus offset
___ Zero offset ___ Minus offset

c. Input Channel No.

If station is to operate via another translator station, indicate call sign and location of final intermediate translator:

2. Proposed transmitter location:

City	County	State

Address or other description of location	Geographical coordinates of transmitting antenna to nearest second North Latitude ° ' " West Longitude ° ' "

Attach as Exhibit No. a map or maps (preferably topographic, if obtainable, such as U. S. Geological Survey quadrangles) for the area of the proposed transmitter location and show drawn thereon the following data:

a. Scale of miles.
b. Proposed transmitter location accurately plotted.
c. Principal community to be served by the proposed TV or FM translator station, clearly identified and labeled.
d. Locations of all known radio stations (except amateur), such as AM, FM, TV, Translator, Police, Fire, Aeronautical, Public Utility, etc., and known commercial or government receiving sites, within the immediate vicinity of the proposed transmitter location.

3. Transmitter:

Make	Type No.	Rated output power (watts) P

4. Transmission line:

Make	Type No.	Length	Rated efficiency E for length given (decimal fraction)

5. Transmitting antenna

Manufacturer	Model No. 1/	Description 1/	Power gain G (multiplier) in lobe of maximum radiation relative to a half-wave dipole	

Orientation 2/	Height above ground 3/	Elevation of Site 4/	Elevation of Community 5/	Effective radiated power R (R = P × E × G) (kW)	Height of radiation center above mean sea level (ft)

1. Give basic type using general descriptive terms such as half-wave dipole, "bow-tie" with screen, comer reflector, 10 element Yagi, 4 element in-phase array, two stacked 5 element Yagis, etc.
2. Show the direction of the main radiation lobe in degrees with respect to true north in a 360 degree horizontal azimuth, numbered clockwise, with true north as zero azimuth.
3. Show height to topmost portion of structure, including highest top mounted antenna and beacon if any.
4. Show the ground elevation above mean sea level at the base of the transmitting antenna supporting structure.
5. Show the average elevation of the community above mean sea level, or in lieu thereof, the commonly used elevation figure for the community to be served.

6. Attach as Exhibit No. a vertical plan sketch for the proposed total structure(s) including supporting structure(s), giving height of center of radiation above ground, overall height of structure above ground, including lighting beacon (if any) and height above mean sea level in feet for all significant features for BOTH RECEIVING AND TRANSMITTING ANTENNAS. Also indicate any horizontal separation between receiving transmitting antennas.

7. Will the proposed antenna supporting structure be shared with another station or stations of any class? ☐ YES ☐ NO
If the answer is "Yes", list the call signs and class of such stations.

8. Attach as Exhibit No. a polar diagram of the radiation pattern (relative field) of the transmitting antenna, showing clearly the correct relationship between the major lobe or lobes and the minor lobes of radiation. If a non-directive transmitting antenna will be employed, i.e., an antenna with an approximately circular radiation pattern, check this ☐ and omit the polar diagram.

9. Has FAA been notified of proposed construction? ☐ YES ☐ NO
If yes, give date and office where notice was filed.
(Not necessary to file FCC Form 714, See Part 17 of the rules.)

10. Unattended operation:

a. Is unattended operation proposed? ☐ YES ☐ NO
If the answer is "Yes", and this application is for authority to construct a new station or to make changes in the facilities of an authorized station which proposes unattended operation for the first time, attach Exhibit No. , containing a full description of the means of compliance with the several requirements of Section 74.734 (TV Translators) or Section 74.1234 (FM Translators) of the Rules concerning unattended operation.

b. In space below state name, address and telephone number of a person or persons who may be contacted in an emergency to suspend operation of the translator should such action be deemed necessary by the Commission:

Name(s)

Address (street or other description)

City & State ZIP Code

Telephone number(s) (include area code)

I certify that I represent the applicant in the capacity indicated below and that I have examined the foregoing statement of technical information and that it is true to the best of my knowledge and belief.

Date _____ Signature _____
(check appropriate box below)

Telephone _____
(include area code)

☐ Technical Director ☐ Chief Operator
☐ Registered Professional Engineer ☐ Other (Specify)
☐ Consulting Engineer

Section VI — Equal Employment Opportunity Program

1. Does the applicant propose to employ five or more fulltime employees? ☐ YES ☐ NO

If the answer is Yes, the applicant must include an EEO program called for in the separate 5 Point Model EEO Program.

Section VII — Certification

1. Has or will the applicant comply with the public notice requirement of Section 73.3580 of the Commission's Rules? ☐ YES ☐ NO

A copy of the text and dates of publication is attached as Exhibit No. _____.

The APPLICANT hereby waives any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. *(See Section 304 of the Communications Act of 1934, as amended.)*

The APPLICANT acknowledges that all the statements made in this application and attached exhibits are considered material representations, and that all exhibits are a material part hereof and incorporated herein.

The APPLICANT represents that this application is not filed for the purpose of impeding, obstructing, or delaying determination on any other application with which it may be in conflict.

In accordance with Section 1.65 of the Commission's Rules, the APPLICANT has a continuing obligation to advise the Commission, through amendments, of any substantial and significant changes in information furnished.

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT.
U.S. CODE, TITLE 18, Section 1001.

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Signed and dated this _____ day of _____, 19____.

_____ Name of Applicant

_____ Signature

_____

_____ Title

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

The solicitation of personal information requested in this application is authorized by the Communications Act of 1934, as amended. The principal purpose for which the information will be used is to determine if the benefit requested is consistent with the public interest. The staff, consisting variously of attorneys, accountants, engineers, and application examiners, will use the information to determine whether the application should be granted, denied, dismissed, or designated for hearing. If all the information requested is not provided, the application may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Accordingly, every effort should be made to provide all necessary information. Your response is required to obtain the requested Permit.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3)

United States of America
Federal Communication Commission
Washington, D.C. 20554

MODEL EEO PROGRAM

1. Name of Applicant | Street Address

City | State | Zip Code | Telephone No. (Include Area Code)

2. This form is being submitted in conjunction with:

☐ Application for Construction Permit for New Station

☐ Application for Assignment of License

☐ Application for Transfer of Control

(a) Call letters (or channel number or frequency) _____

(b) Community of License _____ City _____ State

INSTRUCTIONS

Applicants seeking authority to construct a new low power television broadcast station, applicants seeking authority to obtain assignment of the construction permit or license of such a station, and applicants seeking authority to acquire control of an entity holding such construction permit or license are required to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, religion, national origin or sex. See Section 73.2080 of the Commission's Rules. Pursuant to these requirements, an applicant who proposes to employ five or more fulltime station employees must establish a program designed to assure equal employment opportunity for women and minority groups (that is, Blacks not of Hispanic origin, Asians or Pacific Islanders, American Indians or Alaskan Natives and Hispanics.) This is submitted to the Commission as the Model EEO Program. If minority group representation in the available labor force is less than five percent *(in the aggregate)*, a program for minority group members is not required. In such cases, a statement so indicating must be set forth in the EEO model program. However, a program must be filed for women since they comprise a significant percentage of virtually all area labor forces. If an applicant proposes to employ less than five fulltime employees, no EEO program for women or minorities need be filed.

Guidelines for a Model EEO Program and a Model EEO Program are attached.

NOTE: Check appropriate box, sign the certification below and return to FCC:

☐ Station will employ less than 5 fulltime employees; therefore no written program is being submitted.

☐ Station will employ 5 or more fulltime employees. Our 5 point program is attached.

CERTIFICATION

I certify that the statements made herein are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Signed and dated this_____ day of _____, 19___.

_____

Signature

_____

Title

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT U.S. CODE, TITLE 18, SECTION 1001.

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT

The solicitation of personal information requested in this application is authorized by the Communications Act of 1934, as amended. The principal urpose for which the information will be used is to determine if the benefit requested is consistent with the public interest. The staff, consisting variously f attorneys, accountants, engineers and application examiners, will use the information to determine whether the application should be granted, denied, ismissed, or designated for hearing. If all the information requested is not provided, the application may be returned without action having been taken pon it or its processing may be delayed while a request is made to provide the missing information. Accordingly, every effort should be made to provide ll necessary information.

HE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3).

GUIDELINES TO THE MODEL EEO PROGRAM

The model EEO program adopted by the Commission for construction permit applicants contains five sections designed to assist the applicant in establishing an effective EEO program for its station. The specific elements which should be addressed are as follows:

I. General Policy

The first section of the program should contain a statement by the applicant that it will afford equal employment opportunity in all personnel actions without regard to race, color, religion, national origin or sex, and that it has adopted an EEO program which is designed to fully utilize the skills of minorities and women in the relevant available labor force.

II. Responsibility for Implementation

This section calls for the name (if known) and title of the official who will be designated by the applicant to have responsibility for implementing the station's program.

III. Policy Dissemination

The purpose of this section is to disclose the manner in which the station's EEO policy will be communicated to employees and prospective employees. The applicant's program should indicate whether it: (a) intends to utilize an employment application form which contains a notice informing job applicants that discrimination is prohibited and that persons who believe that they have been discriminated against may notify appropriate governmental agencies; (b) will post a notice which informs job applicants and employees that the applicant is an equal opportunity employer and that they may notify appropriate governmental authorities if they believe that they have been discriminated against; and (c) will seek the cooperation of labor unions, if represented at the station, in the implementation of its EEO program and in the inclusion of nondiscrimination provisions in union contracts. The applicant should also set forth any other methods it proposes to utilize in conveying its EEO policy (e.g., orientation materials, on-air announcements, station newsletter) to employees and prospective employees.

IV. Recruitment

The applicant should specify the recruitment sources and other techniques it proposes to use to attract minority and female job applicants. Not all of the categories of recruitment sources need be utilized. The purpose of the listing is to assist the applicant in developing specialized referral sources to establish a pool of minorities and women who can be contacted as job opportunities occur. Sources which subsequently prove to be nonproductive should not be relied on and new sources should be sought.

V. Training

Training programs are not mandatory. Each applicant is expected to decide, depending upon its own individual situation, whether a training program is feasible and would assist it in its effort to increase the pool of available minority and female applicants. Additionally, the applicant may set forth any other assistance it proposes to give to students, schools or colleges which is designed to be of benefit to minorities and women interested in entering the broadcasting field. The beneficiary of such assistance should be listed, as well as the form of assistance, such as contributions to scholarships, participation in work study programs, and the like.

( ) When we recruit prospective employees from educational institutions such recruitment efforts will include area schools and colleges with significant minority and female enrollments. Educational institutions to be contacted for recruitment purposes are:

_____
_____
_____

( ) When utilizing media for recruitment purposes, help-wanted advertisements will always include a notice that we are an Equal Opportunity Employer and will contain no indication, either explicit or implied, of a preference for one sex over another.

( ) When we place employment advertisements in printed media some of such advertisements will be placed in media which have significant circulation or are of particular interest to minorities and women. Examples of publications to be utilized are:

_____
_____
_____

( ) We will encourage employees, particularly minority and female employees, to refer minority and female candidates for existing and future job openings.

V. Training

( ) Station resources and/or needs will be such that we will be unable or do not choose to institute specific programs for upgrading the skills of employees.

( ) We will provide on-the-job training to upgrade the skills of employees.

( ) We will provide assistance to students, schools or colleges in programs designed to enable minorities and women to compete in the broadcast employment market on an equitable basis:

School or Other Beneficiary	Proposed Form of Assistance
_____	_____
_____	_____
_____	_____

( ) Other (Specify)

_____	_____
_____	_____
_____	_____

MODEL EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

I. General Policy

It will be our policy to provide equal employment opportunity to all qualified individuals without regard to their race, color, religion, national origin or sex in all personnel actions including recruitment, evaluation, selection, promotion, compensation, training and termination.

It will also be our policy to promote the realization of equal employment opportunity through a positive, continuing program of specific practices designed to ensure the full realization of equal employment opportunity without regard to race, color, religion, national origin or sex.

To make this policy effective, and to ensure conformance with the Rules and Regulations of the Federal Communications Commission, we have adopted an Equal Employment Opportunity Program which includes the following elements:

II. Responsibility for Implementation

(Name/Title) _____, will be responsible for the administration and implementation of our Equal Employment Opportunity Program. It will also be the responsibility of all persons making employment decisions with respect to recruitment, evaluation, selection, promotion, compensation, training and termination of employees to ensure that our policy and program is adhered to and that no person is discriminated against in employment because of race, color, religion, national origin or sex.

III. Policy Dissemination

To assure that all members of the staff are cognizant of our equal employment opportunity policy and their individual responsibilities in carrying out this policy, the following communication efforts will be made:

( ) The station's employment application form will contain a notice informing prospective employees that discrimination because of race, color, religion, national origin or sex is prohibited and that they may notify the appropriate local, State or Federal agency if they believe they have been the victims of discrimination.

( ) Appropriate notices will be posted informing applicants and employees that the station is an Equal Opportunity Employer and of their right to notify an appropriate local, State, or Federal agency if they believe they have been the victims of discrimination.

( ) We will seek the cooperation of unions, if represented at the station, to help implement our EEO program and all union contracts will contain a nondiscrimination clause.

( ) Other (specify)

IV. Recruitment

To ensure nondiscrimination in relation to minorities and women, and to foster their full consideration in filling job vacancies, we propose to utilize the following recruitment procedures:

( ) We will attempt to maintain systematic communication, both orally and in writing, with a variety of minority and women's organizations to encourage the referral of qualified minority and female applicants. Examples of organizations we intend to contact are:

_____ _____
_____ _____
_____ _____
_____ _____

( ) In addition to the organizations noted above, which specialize in minority and female candidates, we will deal only with employment services, including State employment agencies, which refer job candidates without regard to their race, color, religion, national origin or sex. Examples of these employment referral services are:

_____
_____
_____

Attachment I to FCC Form 346

The following information may be submitted at the option of applicants. However, applications containing the requested information will be processed at a faster rate than applications not containing such information. In the latter case, the Commission's limited staff will be required to compute the data manually and processing will, therefore, require substantially more time.

Attach as Exhibit No. _____ an allocation study utilizing topographic maps or an accurate full scale reproduction thereof and using pertinent field strength measurement data where available, a full scale exhibit of the entire pertinent area to show the following:

(a) Normally protected and the interfering contours for the proposed operation along all azimuths.

(b) Normally protected and interfering contours of existing stations and other proposed stations in pertinent areas with which prohibited overlap would result as well as those existing stations and other proposals which require study to clearly show absence of prohibited overlap.

(c) Plot of the transmitter location of each station or proposal requiring investigation, with identifying call letters, file numbers, and operating or proposed facilities.

(d) Properly labeled longitude and latitude degree lines, shown across entire exhibit.

APPENDIX E

Tiered Application Processing Procedures for Pending Applications

1. The Commission currently is confronted with an unprecedented processing backlog of more than 6,500 applications for television translators and low power stations. While herein we adopt channel allocation standards tailored to rapid computerized interference analysis, the full implementation of this capability cannot be realized for at least the next 12 months. During this period, the processing staff faces the enormous task of identifying mutually exclusive applications on an essentially manual basis. 1/ We also are confronted by a situation in which a sizeable majority of the applications propose service in the larger television markets. We estimate that approximately one half of the applications are associated with the top 50 television markets and 70 percent with the top 100 markets. In contrast, only 15 to 20 percent propose to locate outside of any ranked market, i.e., outside a market having at least one commercial television station. We recognize that these percentages do not reflect the extent to which numerous applicants compete for relatively few available channels in the largest markets. Nonetheless, we are concerned that this imbalanced demographic array of the pending applications could frusrate near-term attainment of one of our principal goals in this proceeding: to provide programming, including local outlets, in unserved and lesser-served rural areas. We believe the public interest would be served by our adopting a processing hierarchy that would facilitate the expeditious authorization of service to rural areas. In view of the circumstances, we believe the best vehicle for achieving this objective is a transitional "tiered" processing system, in which the application backlog is subdivided into a number of prioritized groups of applications on the basis of the extent of existing television diversity. Once the present backlog has been eliminated (in three phases), and only then, will we lift the freeze on the filing of television translator and low power applications.

2. In general terms, the tiered processing system will function in the following manner. We shall identify and make public lists of applications as either TIER I, TIER II or TIER III applications, classified on the basis of market location. We envision three stages of processing pending applications, including freeze-exempt applications. During the initial phase only TIER I and freeze-exempt applications will be processed. All pending freeze-exempt applications as of the effective date of this Report and Order will be treated as TIER I applications. During the second stage, only pending TIER II and freeze-exempt applications (as these are filed) will be considered. TIER I applications still awaiting grant or denial (some may be awaiting hearing) will be accorded "protected" status in terms of our contour overlap standards. During this second stage, newly-received freeze-exempt applications will be accorded equal protection status with pending TIER II applications. The freeze will be lifted only for competing TIER II filings. Finally, the Commission will enter into the third stage, in which the remaining pending TIER III applications will be considered. At this stage, TIER III applications must protect yet-undisposed TIER I and II applications. Freeze-exempt applications received during this stage will be treated as TIER III applications. The Commission will announce publicly the completion of each stage of processing.

3. The three tier classifications will be defined in terms of the Commission's ranking of television size as contained in the Public Notice encaptioned "Television Channel Utilization" (Public Notice dated March 25, 1981, mimeo number 07820). This report ranks markets from one to 212. For purposes of tiered processing, we define the boundary of a market as a 55-mile circle centered about the reference coordinates of the principal market city or town (cities or towns in the case of hyphenated markets). 2/ The 55-mile radius is roughly equivalent to the predicted Grade B coverage area of a full service UHF television station operating at maximum power. Thus, TIER I will consist of those applications proposing to locate the transmitting antenna at a distance of more than 55 air miles from any FCC-ranked television market. TIER II will consist of those additional applications proposing a location within 55 miles from the reference coordinates of all ranked markets from 101 through 212. TIER III will comprise the remaining applications proposing location within 55 miles of the reference coordinates of all ranked markets from one through 100, inclusive. Hereinafter, we shall eliminate the freeze exemption pertaining to the number of television services received. In its place, we shall consider any prospective applicant meeting TIER I qualifications to be freeze exempt. The remaining two freeze exemptions will remain unchanged. 3/

4. We believe that this tiered processing approach is consistent with the public interest and represents the best means of addressing the application backlog until a fully automated system of processing can be implemented. During the initial stage, the staff will be required to make its determinations through analysis of only 15 to 20 percent of the pending applications. Upon commencement of the last stage, involving some 70 percent of the applications, we expect to have a fully automated processing capability. Second, and perhaps of greater significance, the tiered processing approach will provide greater opportunities for increased service, beginning with the least-served rural areas, a major goal of this proceeding. 4/

5. We recognize that, in affording priority to rural applicants, we may be precluding timely-filed non-rural applications that may be mutually exclusive with rural applications. To alleviate this situation and to preserve any rights that may be argued to have accrued on behalf of non-rural applicants, where a group of mutually exclusive applications includes applications that would fall into a tier to be processed later, the entire group will be deferred until we reach the later tier. That is, if an otherwise exclusively TIER I group contains one or more applications that do not meet the standard for processing during TIER I (more than 55 miles from any ranked market) but fall within TIER II or III, we will defer processing of the group until TIER II (or III) applications are to be processed. The same will hold true when TIER II groups contain TIER III applications. Only in this manner can we ensure that urban channel availabilities will not be precluded by tiered processing of rural applications. With this exception, we believe that tiered processing is fully justified, both on policy and administrative grounds. Provision of service to rural areas that currently are unserved or underserved is an objective that the low power service is particularly suited to carry out. The cost of constructing and operating a full service station often is prohibitive in sparsely-populated rural areas. The lower cost of a low power television may facilitate the introduction of local television service in such areas. However, saddling rural applicants with the costs and delays associated with hearings involving urban applicants as well would raise the entry costs considerably and could discourage applicants from attempting to provide service to rural areas. Additionally, giving priority to rural applicants comports with our mandate under Section 307 (b) of the Communications Act to allocate spectrum in an equitable, fair and efficient manner, and with the way we interpret Section 307(b) as it applies to the low power service. See, paragraph 61 of the Report and Order. Moreover, applications in TIERS II and III appear to contemplate additional television service to areas and populations already receiving multiple services, whereas TIER I applications would bring needed service to unserved or underserved rural areas and populations. Affording processing priority to the latter group would appear to comport with our Section 307(b) obligations. Finally, all interim applicants have been on notice from the outset of this proceeding that their applications and/or interim authorizations would be conditioned upon the outcome of the rule making, so that no inalterable rights can be argued to have accrued.

6. In the near term, between of adoption of the Report and Order and employment of fully computerized processing methods, the tier system will be of little assistance in expediting authorization of service due to the necessarily tedious nature of manual processing using complex engineering criteria. However, with the advent of the computer as a processing tool, the tier system will aid in increasing the number of authorizations because it will reduce the numbers of mutually exclusive applications that must be considered together in chain sequences. This also will expedite the hearing process.

1/ To this end, we are requesting additional topographical information from present applicants that could greatly facilitate our manual processing. See, note 25 of the Report and Order.

2/ We shall utilize the reference coordinates for cities and towns specified in the publication "Airline Distances Between Cities and Towns in the United States," published by the U.S. Department of Commerce, Special Publication No. 238, available from the Superintendant of Documents, United States Government Printing Office, Washington, D.C. 20402. If this publication does not contain the reference coordinates, the coordinates given in the National Atalas Index of the main post office in the principal market city(ies) will be used.

3/ The other exceptions are applications for major amendments to change frequency from Channels 70 through 83 or to change frequency to resolve interference to or from full service stations.

STATEMENT OF
CHAIRMAN MARK S. FOWLER
IN WHICH COMMISSIONER MIMI WEYFORTH DAWSON
JOINS

Re: LOW POWER TELEVISION

Low power television may not have the transmission capabilities of full broadcast television, but its capacity to provide televised programming that is directly responsive to the interests of smaller audience segments makes it truly unique in its ability to expand consumer choices in video programming. From this perspective, the power of these stations may be low, but their potential is enormous.

I fear, however, that the majority may not realize how their vote to impose a one year trafficking limitation on low power facilities may undercut the potential for this service to provide an outlet for new broadcast entrepreneurs, particularly minorities and nonprofit groups, to enter the market. We cannot ignore the fact that the low power service will be inaugurated during a time when financing costs pose a significant barrier to capital investment. It will be difficult enough for these new entrants to obtain financial backing without the added burden that this limitation on the disposability of the facility will impose. Against this very real concern, the majority's speculations as to possible problems that might arise absent a rule seem all the less compelling as a pretext for a general proscription.

Absent a showing of need for government interference in the marketplace, the burden for imposing regulation should lie with those proposing regulation with the presumption in favor of non-interference. I find no argument of the majority overcoming the presumption in favor of non-interference and, therefore, dissent to this aspect of the order.

March 4, 1982

DISSENTING - IN PART - STATEMENT OF COMMISSIONER ABBOTT WASHBURN

RE: Low Power Television, BC Docket No. 78-253

The absence of any limitation on multiple ownership of this new low power service is inconsistent with the Commission's long-standing limitation on ownership of conventional television stations and of AM and FM stations. Currently, ownership of each of these three services is limited to seven stations per licensee. Such limits have proved valuable in preventing concentration (chain ownership) of these facilities and in encouraging diversity of voices of opinion. It would have been in the public interest to include a similar provision here for low power television. Therefore, I dissent to that portion of today's decision which permits unlimited ownership of low power stations.

I also dissent to the majority's abandonment of the proposed preference for noncommercial applicants. As both the Congress by statute and the Commission by our decisions have affirmed repeatedly: there is an important place for public broadcasting in our society. But the tremendous number of applications for LPTV, only 6% of which are noncommercial applicants, suggests that we cannot be sure that noncommercial licensees will occupy that place in low power television unless we award a comparative preference to noncommercial licensees. Similarly, the record before us does not persuade me that a completely open and unregulated market environment will assure diversity of programming. Specifically, programming which appeals to special or limited audiences will not survive in a commercial marketplace environment where success is largely determined by broad audience appeal.* The Commission recognizes this fact in preserving the comparative preference for minority low power applicants (see Footnote 62). I regret that my colleagues' desire to maximize diversity of programming for the public does not extend to awarding a preference to noncommercial applicants.

Finally, I caution the Commissioners to keep a close watch on the hearing procedures under which decisions in mutually exclusive low power cases are to be made by the Commission in the first instance. It may happen that contrary to our goal of expediting establishment of the new low power service, resolution of mutually exclusive cases by the Commission itself without the helpful assistance of an Administrative Law Judge's Initial Decision and review by the Review Board will prove to be too cumbersome and burdensome. It is possible that a total of 10,000 to 12,000 additional applications will be received. Our staff estimates that three quarters of these are likely to be mutually exclusive. Such a flood of LPTV paperwork could end up seriously impeding the other work of the Commissioners and their staffs.

* An example of this is children's television programming which today, in quality and quantity, is so well handled on public television.

SEPARATE STATEMENT

OF

COMMISSIONER JOSEPH R. FOGARTY

In Re: Low Power Television Broadcasting--Report and Order.

This Report and Order begins to clear the way for Low Power Television (LPTV) to have its chance in the telecommunications marketplace. The regulatory framework established by this decision gives LPTV the opportunity to prove its promise of enhanced program service diversity and increased minority ownership without jeopardizing the technical integrity or continued development of the full service television station system.

Because of the uncertain viability of this new and secondary LPTV service and the herculean administrative task of processing the 6,000 low power applications now pending before the Commission, this Report and Order wisely and appropriately prescribes a minimum of governing regulation. At the same time, however, I also believe that the tiered processing system and comparative criteria specified by this decision meet the Commission's important statutory responsibilities under Section 307(b) and 309(e) of the Communications Act. In particular, the tiered processing standards ensure first consideration of underserved rural area LPTV applications but also guarantee that where early grant of a rural application might preclude the availability of an LPTV frequency in an urban area, those rural and urban applications will be jointly processed and reviewed. In light of the fledgling and secondary status of this new LPTV service, I am convinced that this processing system meets the command of Section 307(b) that the Commission "provide a fair, efficient, and equitable distribution" of service to each of the "several States and communities." As I emphasized in my Separate Statement on the Notice of Proposed Rulemaking in this proceeding, the statutory mandate of Section 307(b) is not a static, one-time requirement because the balance of demand for broadcast facilities and service is dynamic and changes over time.[1/] While the Commission has considerable discretion in implementing the Section 307(b) requirement, it may not ignore it. We have kept faith with Section 307(b) in this Report and Order.

Our decision to apply the 1965 Policy Statement on Comparative Broadcast Hearings[2/] to competing LPTV applications according to diversificati and minority ownership criteria also adheres to the statutory requirements of Section 309(e) of the Act while providing the flexibility and expedition necessary for the effective implementation of this untested, secondary service. While difficult ad hoc adjudicatory issues may be presented under these two criteria, I believe that the paramount public interest in "best practicable service" will be advanced and protected by this case-by-case process.

In terms of further protecting the public interest, I am especially pleased that the Commission has decided to apply a one-year anti-trafficking rule to LPTV license grants. Together with the strict requirement that LPTV stations be constructed and go on-air within one year of grant of construction permit, this action safeguards the integrity of the diversification and minority ownership comparative criteria and provides critical assurance that only bona fide public interest applications will be prosecuted.

1/ Separate Statement of Commission Joseph R. Fogarty, Concurring in Part, 82 FCC 2d 82, 83-84 (1980), citing Pasadena Broadcasting Co. v. FCC, 555 F.2d 1046 (D.C. Cir. 1977).

2/ 1 FCC 2d 393 (1965).

Low Power Television offers exciting new ownership and public service opportunities in broadcasting, as the 6,000 applications filed during the pendency of this proceeding more than amply demonstrate. This Commission is doing its part to provide the fair chance for these dreams to become reality. Candor, as well as standards of truth in advertising, compels the final observation that there are no guarantees. As former Chairman Robert E. Lee perhaps presciently observed, an LPTV authorization "isn't going to be a license to print money."[3/] The fair opportunity, however, is afforded. This Commission should do no less and can do no more.

3/ Concurring Statement of Commissioner Robert E. Lee, 82 FCC 2d 81 (1980).

SEPARATE STATEMENT OF COMMISSIONER HENRY M. RIVERA

RE: Broadcast Docket No. 78-253
Low Power Television

Today's Report and Order is the first concrete step toward making the low power television service available to the American public. There are several impediments to substantial near-term development of this service. Among the most prominent obstacles to the low power service are: (i) the staggering number of pending applications and the resulting continuation of the existing processing freeze; and (ii) the possibility that low power grants may even be precluded in some large markets if the Commission reallocates television spectrum for land mobile use after reviewing the staff recommendations it has requested on the subject. In this context, truth in advertising requires that the public (especially members of minority groups) be advised to temper its optimism over the low power television service at this juncture.

Despite these implementation handicaps, I firmly support the decision to launch the first new broadcast service in decades. The Commission's initiative offers a rich, if distant, opportunity to promote diversity of ownership generally and to widen opportunities for minority ownership in particular; it also may serve as a testing ground for new regulatory approaches.

Our decision to impose minimum regulatory constraints upon low power television is appropriate for a service whose viability is so uncertain, and whose stations are of limited reach and easily preemptable by full-service stations. However, the framework adopted is not without risk. The failure to impose any ownership limitations, for instance, is said to be likely to induce experienced broadcasters to provide LPTV service and to allow parties to achieve economies of scale from multiple ownership -- thereby generally fostering the development of the low power service. It is also possible, on the other hand, that without restrictions on network ownership, cross-ownership or duopolies, a low power television landscape far different from that intended by the Commission will develop. I am persuaded by the Report and Order that the Commission does not now need to impose ownership limits but am prepared to reconsider if the absence of ownership rules seriously erodes the primary goals of the low power service.

The tiered processing system adopted to resolve the serious administrative problems caused by the ocean of pending LPTV applications is an unfortunate, but probably necessary, by-product of this proceeding. Most unfortunate is that under the scheme, LPTV authorizations in major urban centers -- where ethnic and minority groups with special needs are highly concentrated -- will be the last to be made. However, to its credit, the system is designed to protect urban LPTV service: it expressly defers action on all rural applications, which if granted, would foreclose a pending application to serve an urban area.

Not surprisingly, a sizeable number of applications filed by minorities are concentrated in urban markets. A processing hierarchy premised exclusively on geographic remoteness would have precluded many of these applications at the starting gate, and substantially undercut this proceeding's goals of encouraging minority ownership of broadcast facilities. The Commission's modified tier approach avoids that pitfall by according priority to underserved rural areas as a general matter but preserving the interests of those proposing service in urban areas where there are competing demands to provide LPTV.

The one-year holding period preserves the dignity of the comparative process. It gives some assurance that those who were deemed comparatively superior by the Commission will indeed serve the public and forestalls the creation of a low power "CP futures market" that could vitiate the essential goals of the comparative process. Contrary to assertions in some quarters, this restriction will not force parties to operate failing LPTV stations. Waivers of the holding period are always grantable upon a proper showing by the licensee. Moreover, if the restriction works an unintended hardship on the development of the service the Commission has the discretion to revisit the issue.

I sincerely hope that the Commission's decision to award priority to diversification of media control and minority ownership in comparative cases will go far in advancing the goals of this new service. 1/

1/ In view of the severe underrepresentation of minorities in broadcast ownership, see, e.g., Policy Statement on Minority Ownership of Broadcast Facilities, 68 FCC 2d 979 (1979), the decision to accord comparative priority to applicants proposing over fifty percent minority ownership in low power television licensing policies is eminently justified. That decision also follows the theme of prior agency actions designed to increase minority ownership of broadcast facilities. In the clear channel proceeding, for example, see Clear Channel Broadcasting in the AM Broadcast Band, 78 FCC 2d 1345 (1980), the Commission found that the public interest would be served (in awarding frequencies made available by the decision to allow limited sharing of clear channel frequencies), by giving precedence to applicants proposing a first or second local primary service, applicants with over fifty percent minority ownership and applicants proposing non-commercial operations. See 78 FCC 2d at 1368-70. The Commission classified as "paramount" among competing demands for spectrum the need to increase the number of minority-owned radio stations, citing the fact that just 200 of the over 8,000 radio stations were then owned by minorities. Id. at 1368. This
(footnote continued next page)

Applying these two comparative factors will surely be among the Commission's most challenging tasks. I frankly would have preferred a more precise discussion of the substantive elements of the comparative process, but on balance am satisfied to let the requisite detail emerge as we begin to process the myriad pending comparative cases.

The Commission may ultimately find that adoption of a policy statement to guide its application of the two primary comparative criteria -- diversification of ownership and minority ownership -- will facilitate speedier and surer resolution of comparative cases. Until that time, considerable gloss will have to be placed on these criteria in evaluating competing applications. The Commission has reconfigured its comparative licensing standards for the low power service, 2/ and its comparative analysis will have to be reconfigured as well. 3/

1/ (continuation)
decision was recently judicially affirmed. Loyala University v. FCC, No. 80-1824 (D.C. Cir. Jan. 26, 1982). The record regarding minority ownership of television outlets is even more discouraging, with just 16 of 1,050 licensees being minority owned, and thus, the case for awarding comparative priority in this new television service all the more compelling. See also Policy Statement on Minority Ownership, supra; Grayson Enterprises, Inc., FCC 80-175 (1980) (allowing approval of "distress sale" applications when it is shown that over fifty percent of the prospective licensee is minority-owned).

2/ As an initial matter, the focus of the Commission's comparative inquiry has been substantially narrowed. In addition, the Commission has altered the prerequisites for comparative recognition of minority ownership in two important particulars: integration of ownership and management is no longer required, but over fifty percent ownership by minorities must now be shown. The Commission, in my judgment, has the latitude to recast its comparative analysis in this manner, and the record in this proceeding furnishes a rational basis for doing so.

3/ For example, because the Commission has altered the circumstances under which it will consider minority ownership in the low power service, reference to the "merit" concept as it has evolved under TV 9, Inc. v. FCC, 495 F.2d 929 (D.C. Cir. 1973) and its progeny would be essentially inapposite here.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

In the Matter of	)	3660
	)	
An Inquiry into the Future Role of	)	
Low Power Television Broadcasting	)	BC Docket No. 78-253
and Television Translators in the	)	
National Telecommunications System.	)	

ERRATUM

Released: April 26, 1982

By the Commission:

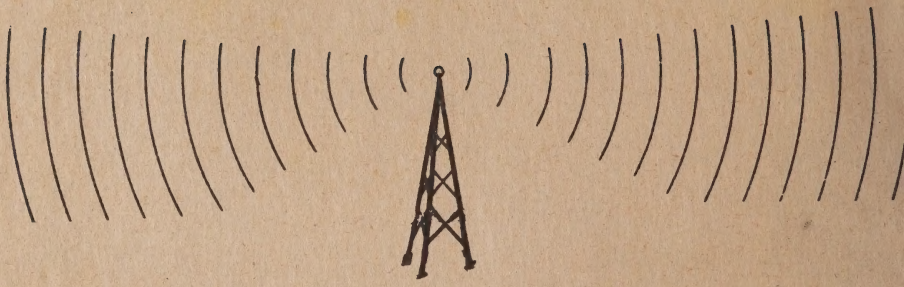
In paragraph 118 of the Report and Order in the aforementioned proceeding, FCC 82-107, adopted March 4, 1982, released April 26, 1982, the effective date was inadvertently omitted. Paragraph 118 should read as follows:

> 118. In light of the foregoing and pursuant to authority contained in Sections 1, 4(i) and 303 of the Communications Act of 1934, as amended, IT IS ORDERED, That the rule amendments set out in Appendix A ARE ADOPTED, EFFECTIVE June 7, 1982; and

FEDERAL COMMUNICATIONS COMMISSION

William J. Tricarico
Secretary

For the sake of space and cost limitations, we have not reproduced the dozens of pages regarding comments filed on the low power proposed rules. They will be published in the Federal Register if you should be interested in reading them in full.



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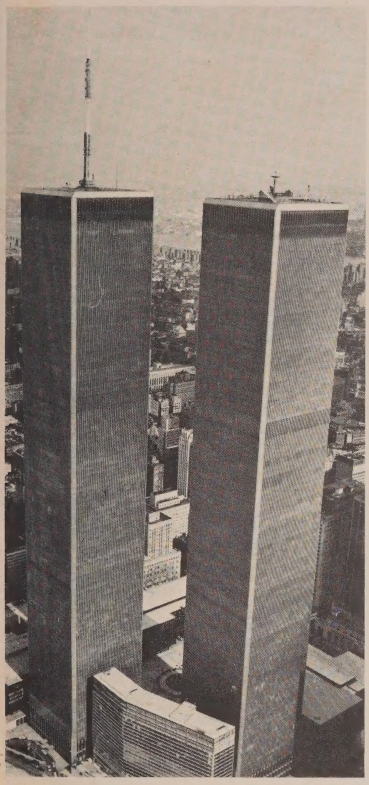

Since the September 9, 1980 FCC proposal to relax regulations on low power television, much speculation has been made as to the impact this will have on the broadcast industry.

But to WWHT-TV atop the World Trade Center in Manhattan, low power television is anything but new. The station, in its fourth year of service, was the first in the country to use low power transmission equipment to deliver commercial, over-the-air subscription television. The station was also the first to use a circular polarized antenna with a low power television translator, and the first to transmit from the World Trade Center.

The system consists of a pair of 1kW Model T-240 translators designed and installed by Acrodyne Industries. The translators provide 1000 Watts vertical and 1000 Watts horizontal to the circular polarized Bogner antenna. Programming—mostly recent motion pictures—originates from WWHT-TV in Newark, New Jersey, and is beamed to the Acrodyne translator in New York. Then the scrambled video and audio signals are amplified and transmitted throughout the metro area.

WWHT's 46,000 subscribers are able to pick up the station on Channel 60 through the use of commercial decoder boxes.

High atop the World Trade Center in New York City are two Acrodyne 1kW T-240 translators serving station WWHT-TV of Newark, NJ.

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Photo above left of NAB convention exhibits in Dallas. Next issue we will give you details of new equipment etc. from Dallas NAB and from the National Cable Television Association convention in Las Vegas which we are attending May 2-5. Photo upper right is Acrodyne's new 1,000 LPTV UHFtransmitter being shown at the NAB. Photo lower right is the lunch break at the two day crash course at Dallas (Arlington).

ICTV ALLIANCE MOVING

The little guy alliance has come to life and we are generating lots of enthusiasm for some of these programs. Now we are considering making a videotape for members on how to file their own applications. We understand the new rules may make it even simpler.

No one should have to pay $4,000 to have their income tax filed and no one should have to pay $4,000 to file an application for a legitimate public service business that is going to make life better for everyone. No one should have preferential treatment in getting a license because they pay a fat bundle to some attorney of certain political persuasion. We are working with some engineers on a computer program to make available to members a printout of all channels still available in any city they are considering.

ICTV

Membership Information

Independent Community Television Alliance

- ☐ Local Power Hot Line - 50 hours a week.
- ☐ Subscription - Monthly Lo Power Magazine
- ☐ Co-Op Group Purchases of Equipment
- ☐ Expedited Washington Research Information
- ☐ Collective Lobbying for the Little Guy in LPTV.
- ☐ Washington Follow-up on Applications
- ☐ Verbal Phone Access to Commission Data Base - 6 Days a Week
- ☐ Use of Instructional "How To" Video Tapes (1 week) Members pay only for shipping, handling, record keeping.

INSTRUCTIONAL "HOW TO" VIDEO TAPES AVAILABLE
(Use for one week; members pay only for shipping, handling, record-keeping.)

• Techniques of Using One Camera	1 hour
• Setting Up a Studio	30 minutes
• Television Tape Production	45 minutes
• Lighting for Television	25 minutes
• Multiple Camera Techniques	30 minutes
• Shooting Video "Basics"	60 minutes
• How to Shoot a Sports Event	20 minutes
• How to Broadcast a Local Wedding	20 minutes
• How to Broadcast a Church Service	20 minutes
• How to Set Up a Video Tape Business	20 minutes
• Shooting Local Commercials for Cable or LPTV	20 minutes
• LPTV Crash Course	12 hours
• LPTV Crash Course "B"	10 hours
• Subscription TV	17 minutes
• World's Smallest Full Service TV Station	35 minutes
• The New *Mavica* "Still Camera"	17 Minutes

Tapes Under Development:
• Investing in Low Power TV

BOOKS AND MANUALS LOANED -- TWO WEEKS FREE TO MEMBERS

- ★ How To File Under The New LPTV Rules
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- ★ Color TV Studio Design And Operation
- ★ Video Tape Production And Communication Techniques
- ★ Designing And Maintaining a Small TV Studio
- ★ Television Production Handbook

Members free one week use of each tape

•••WE DO A COMPLETE RURAL AREA VHF LPTV FCC APPLICATION FOR YOU!
•Members Price: $250 Non-Members: $450

FREE APPLICATION ASSISTANCE HOTLINE FOR MEMBERS - 6 DAYS A WEEK

ICTV

Independent Community Television Alliance 7432 E. Diamond, Scottsdale, AZ 85257

Below is my application for membership in ICTV. I have deducted $_____ for which I have already paid Lo-Power Publishing for publications and enclose a check for $_____ the two totalling $250.00 for my one-year membership.

Membership Application

Individual(s) to contact: _____ Name _____ Position

_____ _____

Company _____

Address _____

City _____ State _____ Zip Code _____

Phone ( )